

Question then recurring on the motion of Senator Metcalfe, yeas and nays were demanded, and the motion prevailed by the following vote:

## Yeas—17

Beck	Lovelady
Chadick	Mauritz
Cotten	Metcalfe
Fain	Moore
Graves	Ramsey
Hazlewood	Van Zandt
Isbell	Vick
Lanning	Weinert
Lemens	

## Nays—6

Aikin	Moffett
Brownlee	Stone
Formby	Sulak

## Absent

Kelley	York
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## Absent—Excused

Hill	Smith
Martin	Spears
Shivers	Winfield

The Senate, accordingly, at 12:10 o'clock p. m., adjourned until 10:00 o'clock a. m., Monday, June 30, 1941.

## EIGHTY-THIRD DAY

(Monday, June 30, 1941)

The Senate met at 10:00 o'clock a. m., pursuant to adjournment, and was called to order by President Stevenson.

The roll was called, and the following Senators were present:

Aikin	Martin
Beck	Mauritz
Brownlee	Metcalfe
Chadick	Moffett
Cotten	Moore
Fain	Ramsey
Formby	Shivers
Graves	Stone
Hazlewood	Sulak
Isbell	Van Zandt
Kelley	Vick
Lanning	Weinert
Lemens	Winfield
Lovelady	York

## Absent—Excused

Hill	Spears
Smith	

A quorum was announced present.

Rev. S. B. Culpepper, Chaplain, offered the invocation.

On motion of Senator Aikin and by unanimous consent, the reading of the Journal of the proceedings of Thursday, June 26, 1941, was dispensed with and the Journal was approved.

## Leaves of Absence Granted

Senator Spears was granted leave of absence for today on account of important business, on motion of Senator Graves.

Senator Hill was granted leave of absence for today on account of important business, on motion of Senator Aikin.

Senator Smith was granted leave of absence for today on account of important business, on motion of Senator Moffett.

## Message from the House

A Clerk from the House was recognized by the President to present the following message:

Hall of the House of Representatives,  
Austin, Texas,  
June 30, 1941.

Hon. Coke R. Stevenson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills and resolution:

H. B. No. 1088, A bill to be entitled "An Act to amend Chapter 85 of the First Called Session of the Fortieth Legislature approved June 8, 1927, to authorize a ninety-nine year lease to be issued to the Town of Aransas Pass leasing Ransom Island and certain waters surrounding the same, situated in Nueces County, authorizing the said town to improve or have said area improved for public park purposes and the building of recreational facilities, bathing beaches, wharves, slips and docks, pavilions, clubhouses, habitations, tourist and other cottages, hotels, cafes, stores, filling stations, concessions, bathhouses, channels, causeways, bridges, streets, alleys, utilities and other structures and facilities necessary or desired for the development of the leased area as a place of recreation, amusement and better living; authorizing the reclamation, dredging and filling of any part of the leased area; authorizing the subdivision of the

leased area or any part thereof into lots and blocks by surveys and dedicated maps and plats; authorizing said towns to sublease all or any part or parts of the leased area for any or all of said purposes; validating all subleases heretofore made by said town or Aransas Pass; providing for the maintenance of said area and for keeping open to the public free of charge such portions as may be necessary to constitute a public place for the recreation and enjoyment of the public; providing for the policing of said area, enlarging the area to be leased; preserving to the State all minerals in and under the leased area with the right of access for drilling and mining purposes and reserving the right to sell any and all available shell in the leased area; and declaring an emergency."

H. B. No. 1089, A bill to be entitled "An Act for the purpose of providing necessary regulations for the taking of fish from the body of water formed by the waters of the Navasota River within the boundaries of Fort Parker State Park; providing for a special license for one day's fishing; and declaring an emergency."

H. B. No. 1094, A bill to be entitled "An Act amending Section 6 of Chapter 426, Acts of the Regular Session of the Forty-fifth Legislature, as amended by Section 3 of H. B. No. 828, Acts of the Regular Session of the Forty-seventh Legislature, providing for the appointment, term of office, qualification and organization of board of directors of the San Jacinto River Conservation and Reclamation District; fixing the domicile of said district; and declaring an emergency."

H. B. No. 1096, A bill to be entitled "An Act relating to National and State defense; providing for the establishment of a State Council of Defense and of local and district councils of defense; prescribing the powers and duties thereof; providing for the acceptance of gifts and donations and creating a fund therefor; appropriating all monies in said fund; providing a saving clause; repealing all laws or parts of laws inconsistent therewith; and declaring an emergency."

H. B. No. 1099, A bill to be entitled "An Act making an appropriation for the support and maintenance of the Bedding Division of the State Department of Health for the two-year period beginning September 1, 1941,

and ending August 31, 1943, and for other purposes; and declaring an emergency."

S. B. No. 416, A bill to be entitled "An Act to amend Section 7, Article 3266, of the Revised Civil Statutes of 1925; so as to provide for the recording of the decision of commissioners in eminent domain proceedings in the minutes of the county court, and repealing all laws and parts of laws in conflict herewith; and declaring an emergency."

S. B. No. 464, A bill to be entitled "An Act amending Article 4549, Chapter 9 of Title 71 of the Revised Civil Statutes of the State of Texas as amended; providing for notice and hearing before revocation or suspension of licenses; clarifying certain language; changing the word 'preceeding' to 'this,' setting out the type of notice and hearing herein provided for; providing for the repeal of all laws and parts of laws in conflict with this Act, providing that if any Section, clause or provisions of this Act be held unconstitutional or invalid, it shall not affect the remaining portions; and declaring an emergency."

As amended.

House grants request of Senate for return of H. B. No. 1070 for further consideration.

S. C. R. No. 85, Granting J. P. McKenzie of Walker County permission to sue the State of Texas and the State Parks Board.

The House has concurred in Senate amendments to H. B. No. 611 by a vote of 119 yeas, 7 noes.

Respectfully submitted,

E. R. LINDLEY,  
Chief Clerk, House of Representatives.

#### Motion to Take up Senate Bill 303

Senator Ramsey moved that the regular order of business be suspended, to permit consideration of S. B. No. 303 at this time.

The motion was lost by the following vote (not receiving the necessary two-thirds vote):

Yeas—15

Brownlee	Ramsey
Fain	Shivers
Lanning	Stone
Lovelady	Sulak
Mauritz	Weinert
Metcalfe	Winfield
Moffett	York
Moore	

## Nays—9

Aikin	Hazlewood
Chadick	Isbell
Cotten	Martin
Formby	Vick
Graves	

## Absent

Beck	Lemens
Kelley	Van Zandt

## Absent—Excused

Hill	Spears
Smith	

## House Bill 857 on Second Reading

On motion of Senator Metcalfe and by unanimous consent, the regular order of business was suspended to permit consideration of H. B. No. 857 at this time.

The President laid before the Senate on its second reading and passage to third reading:

H. B. No. 857, A bill to be entitled "An Act amending Article 3125, Revised Civil Statutes, 1925, as amended by Chapter 225, Acts of the Forty-third Legislature, to provide certain changes with respect to the canvass of election returns by the county executive committee; amending Articles 3126, 3128, 3129, 3130, 3131, 3146, 3147, 3148, 3150, Revised Civil Statutes, 1925, and Article 3153, Revised Civil Statutes, 1925, as amended by Chapter 241, Acts of the Forty-second Legislature, providing certain changes in the conduct of elections, for the determining of nominees, and for the prosecutions of election contests; repealing Articles 3149 and 3151, Revised Civil Statutes, 1925, and repealing Article 3152, Revised Civil Statutes, 1925, as amended in Chapter 19, Acts of the Fortieth Legislature, as amended by Chapter 241, Acts of the Forty-second Legislature, and repealing all other laws or parts of laws in conflict with the provisions of this Act; and declaring an emergency."

The bill was read second time and was passed to third reading.

## House Bill 857 on Third Reading

Senator Metcalfe moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 857 be placed on its third reading and final passage.

The motion prevailed by the following vote:

## Yeas—28

Aikin	Martin
Beck	Mauritz
Brownlee	Metcalfe
Chadick	Moffett
Cotten	Moore
Fain	Ramsey
Formby	Shivers
Graves	Stone
Hazlewood	Sulak
Isbell	Van Zandt
Kelley	Vick
Lanning	Weinert
Lemens	Winfield
Lovelady	York

## Absent—Excused

Hill	Spears
Smith	

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

## Report of Conference Committee on House Bill 29

Senator Sulak moved that the regular order of business be suspended to permit his submitting for consideration by the Senate at this time the report of the Conference Committee on H. B. No. 29.

The motion prevailed by the following vote:

## Yeas—15

Brownlee	Martin
Chadick	Mauritz
Cotten	Metcalfe
Fain	Moffett
Formby	Shivers
Graves	Sulak
Hazlewood	Winfield
Lemens	

## Nays—7

Aikin	Lovelady
Beck	Vick
Isbell	Weinert
Lanning	

## Absent

Kelley	Stone
Moore	Van Zandt
Ramsey	York

## Absent—Excused

Hill	Spears
Smith	

Senator Sulak then submitted the following report:

Austin, Texas,  
June 30, 1941.

Hon. Coke R. Stevenson, President of the Senate;

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: We, your Conference Committee, appointed to adjust the differences between the two Houses on H. B. No. 29, have met and beg leave to recommend that H. B. No. 29 be passed in the form hereto attached.

Respectfully submitted,

SULAK,  
FORMBY,  
CHADICK,  
METCALFE,  
MOFFETT,

On the part of the Senate;

FUCHS,  
CHAMBERS,  
DONALD,  
CARRINGTON,  
HOYO,

On the part of the House.

H. B. No. 29, A bill to be entitled "An Act to amend Article 1037, of the Revised Criminal Statutes of Texas of 1925, as amended by S. B. No. 222, Chapter 303, Acts of the Forty-first Legislature, Regular Session, relating to weights and measures; prohibiting the sale, use or possession of false weights, measures, or weighing or measuring devices and weights, measures, or weighing or measuring devices which have not been sealed by a weights and measures official; prohibiting the sale and use of devices which have been condemned for repairs; prohibiting the sale of commodities contrary to law; requiring commodities to be sold by weight, measure, or numerical count; regulating the packing and marking of packages and containers; requiring the net quantity of contents of such packages or containers to be plainly and conspicuously marked on the outside of package or container; requiring the name and address of manufacturer, packer, or distributor on packages; providing for certain varieties in weight; prohibiting deceptive pack; providing for standards of fill of containers; providing standards for the sale of milk, cheese, meat and meat food products, including poultry; prohibiting misrepresentation of price or quantity of commodity, thing, or service; providing

for establishment of rules and regulations, including certain exceptions; defining certain terms; providing penalties for the enforcement of the Act; repealing laws in conflict; including a saving clause; and declaring an emergency."

Be It Enacted by the Legislature of the State of Texas:

Section 1. That Article 1037 of the Revised Criminal Statutes of the State of Texas of 1925, as amended by S. B. No. 222, Chapter 303, Acts of the Forty-first Legislature, Regular Session, be and the same is hereby amended to read as follows:

"Article 1037. Any person who, by himself or by his servant or agent, or as the servant or agent of another person, shall offer or expose for sale, sell, use in the buying or selling of any commodity or thing, or for hire or award, or in the computation of any charge for services rendered on the basis of weight or measure, or in the determination of weight or measure when a charge is made for such determination, or retain in his possession, a false weight or measure or weighing or measuring device, or any weight or measure or weighing or measuring device which has not been sealed by the Commissioner, or his deputy, or inspectors, or by a dealer or deputy sealer of weights and measures within one year, or shall dispose of any condemned weight, measure, or weighing or measuring device contrary to law; or who shall sell or offer or expose for sale less than the quantity he represents of any commodity, thing, or service, or shall take or attempt to take more than the quantity he represents, when, as the buyer, he furnishes the weight, measure, or weighing or measuring device by means of which the amount of any commodity, thing, or service is determined; or who shall keep for the purpose of sale, offer or expose for sale, or sell any commodity in a manner contrary to law; or who shall sell or offer for sale, or use have in his possession for the purpose of selling or using, any device or instrument to be used to or calculated to falsify any weight or measure, shall be guilty of a misdemeanor, and shall be punished by a fine of not less than Twenty (\$20.00) Dollars or more than One Hundred (\$100.00) Dollars, upon a first conviction in any court of competent jurisdiction; and upon a second or subsequent conviction in any

represents, when, as the buyer, he furnishes the weight, measure, or weighing or measuring device by means of which the amount of any commodity, thing, or service is determined; or who shall keep for the purpose of sale, offer or expose for sale, or sell any commodity in a manner to law; or who shall sell or offer court of competent jurisdiction he shall be punished by a fine of not less than Fifty (\$50.00) Dollars or more than Two Hundred (\$200.00) Dollars.

"Section A. The word 'person' as used in this Chapter shall be construed to include any individual and all officers, directors, managers, employees, and other agents of all corporations, companies, partnerships, societies and associations, and such is the legislative intent.

"The words 'weights, measures or (and) weighing or (and) measuring devices' as used in this Chapter, shall be construed to include all weights, scales, beams, measures of every kind, instruments and mechanical devices for weighing or measuring, and any appliances and accessories connected with any or all of such instruments.

"The words 'sell' or 'sale' as used in this Chapter, shall be construed to include barter and exchange.

"The term 'false weight or measure, or (and) weighing or measuring device' as used in this Chapter, shall be construed to mean any weight or measure or weighing or measuring device which does not conform as closely as practicable to the official standards, which is not accurate, which is of such construction that it is not reasonably permanent in its adjustment or will not correctly repeat its indications, which facilitates the perpetration of fraud, or which does not conform to the requirements of the Statutes of this State and to the specifications and tolerances promulgated by the Commissioner under authority of Article 5714, Chapter 7, Title 93, of the Revised Civil Statutes of Texas of 1925, as amended.

"Section B. It shall be unlawful to sell, except for immediate consumption on the premises, liquid commodities in any other manner than by liquid measure, or commodities not liquid in any other manner than by measure of length, by weight, or by numerical count: Provided, however, that liquid commodities may be sold by weight if there exists a general

consumer usage to express the quantity of such commodities by weight and such expression give accurate information as to the quantity thereof; and that nothing in this Section shall be construed to prevent the sale of fruits, vegetables, and other dry commodities in the standard barrel or by other methods provided for by State or Federal Law; or of berries and small fruits in boxes as provided for in the provisions of other Articles of the Statutes; or of vegetables or fruits usually sold by the head or bunch in this manner: Provided further, that nothing in this Section shall be construed to apply to commodities put up in original packages.

"For the purposes of this Section the term 'original package' shall be construed to include a commodity in a package, carton, case, can, barrel, bottle, box, phial, or other receptacle, or in coverings or wrappings of any kind, put up by the manufacturer, which may be labeled, branded, or stenciled, or otherwise marked, or which may be suitable for labeling, branding, or stenciling, or marking otherwise, making one complete package of the commodity. The words 'original package' shall be construed to include both the wholesale and the retail package.

"For the purposes of this Section the term 'commodities not liquid' shall be construed to include goods, wares, and merchandise, which are not in liquid form and which have heretofore been sold by measure of length, by weight, by measure of capacity, or by numerical count, or which are susceptible of sale in any of these ways.

"Section C. (1) It shall be unlawful to keep for the purpose of sale, offer or expose for sale, or sell, any commodity in package form unless (a) the net quantity of contents, in terms of weight, measure, or numerical count; and (b) the name and place of business of the manufacturer, packer, or distributor shall be plainly and conspicuously marked on the outside of the package: Provided, however, that under Clause (a) of this Section reasonable variations or tolerances shall be permitted, and exemptions as to small packages shall be made; and that under Clause (b) of this Section exemptions as to packages sold on the premises where packed shall be made: And provided further, that this Section shall not be construed to apply to those commodi-

ties in package form, the manner of sale of which is specifically regulated by the provisions of other Articles of the Statutes, or to bales of cotton; and that reasonable rules and regulations for the efficient enforcement of this Act, not inconsistent herewith, and including the reasonable variations or tolerances and the exemptions prescribed herein, shall be made by the Commissioner.

"(2) It shall be unlawful to keep for the purpose of sale, offer or expose for sale, or sell any commodity in package form if its container is so made, formed, or filled, or it is so wrapped, as to mislead the purchaser as to the quantity of the contents; or if the contents of its container fall below the standard of fill prescribed by regulations promulgated as provided in this Section. For the effectuation of the purposes of this Section the Commissioner is hereby authorized to promulgate fixing and establishing for any commodity in package form a standard of fill of container, which in his best judgment is reasonable with respect to the physical characteristics of the commodity, the size, shape, and physical characteristics of the container, prevailing methods of handling and transportation of packages, and generally accepted good commercial practice in filling methods; Provided, however, that reasonable variations or tolerances shall be permitted, and that these reasonable variations or tolerances shall be established by regulations made by the Commissioner.

"(3) The words 'in package form' as used in this Chapter, shall be construed to include a commodity in package, carton, case, can, box, bag, barrel, bottle, phial, or on a spool or similar holder, or in a container or band, or in a roll, ball, coil, skein, or other receptacle, or in coverings or wrappings of any kind, put up by the manufacturer, or when put up prior to the order of the commodity, by the vendor, which may be suitable for labeling, branding, or stenciling, or marking otherwise, making one complete package of the commodity. The words 'in package form' shall be construed to include both the wholesale and the retail package: Provided, however, that a box or carton used for shipping purposes containing a number of packages which are individually marked, as hereinbefore provided, will not be required to bear the weight or measure of the contents thereof, nor

the name and place of business of the manufacturer, packer or distributor: And provided further, that the words 'in package form' shall not be construed to include paper stationery in tablet form.

"Section D. It shall be unlawful for any person to keep for the purpose of sale, offer or expose for sale, or sell, any milk or cream in bottles or other containers of any capacity other than those provided for measures of capacity for liquid in Article 5732, Chapter 7, Title 93, of the Revised Civil Statutes of Texas of 1925; to wit, the gallon, a multiple of the gallon, one-half gallon, quart, pint, one-half pint, and gill.

"Section E. It shall be unlawful for any person to keep for the purpose of sale, offer or expose for sale, or sell, except for immediate consumption on the premises, any cheese, meat, or meat food products otherwise than by standard net weight: Provided, however, that any cheese, meat, or meat food products, in package form, shall comply with the requirements of Section C of this Article. For the purposes of this Section the following shall be deemed to be meat and meat food products: All fresh, cured, or salt meats, fish, poultry, sausage, chile, head cheese, souse meat, loaf meat, boneless meat, shredded meat, hamburger meat, or any other manufactured, prepared, or processed meat or meat food products. This Section shall be construed to require that all poultry sold by live weight shall be weighed live at the time of sale, and that any poultry dressed or killed prior to time of sale, whether cooked or uncooked, shall be sold by net weight at time of sale and not by live weight or by the piece.

"The word 'poultry' as used in this Section shall be construed to include turkeys, chickens, ducks, geese, guineas, squabs, and all other domesticated fowls.

"Section F. Whenever any commodity is sold on a basis of weight, it shall be unlawful to employ any other weight in such sale than the net weight of the commodity, and all contracts concerning goods sold on a basis of weight shall be understood and construed accordingly. Whenever the weight of a commodity is mentioned in this Chapter, it shall be understood and construed to mean the net weight of the commodity: Provided, however, that this Section shall

not be construed to apply to bales of cotton.

"Section G. It shall be unlawful for any person to misrepresent the price of a commodity, thing, or service sold or offered or exposed for sale, or to represent the price or the quantity of any commodity, thing, or service sold or offered or exposed for sale in any manner calculated or tending to mislead or deceive an actual or prospective customer. Whenever any price sign, tag, card, poster, or other advertisement displaying the price of any commodity or thing, includes a whole number and a fraction, the figures in the fraction shall be of proportionate size and legibility with those of the whole number.

"Section H. There shall be no violation under this Act for any discrepancy between actual weight or volume at the time of sale to the consumer and the weight marked on the container or between the fill of container and the capacity of the container if such discrepancy is due to unavoidable leakage, shrinkage, evaporation, waste or to causes beyond the control of the seller acting in good faith.

"Section I. Any person who shall violate any provisions of this Act, or any of the reasonable rules and regulations promulgated hereunder, for which a specific penalty has not been provided, shall be guilty of misdemeanor, and shall be punished by a fine of not less than Twenty (\$20.00) Dollars, or more than One Hundred (\$100.00) Dollars upon a first conviction in any court of competent jurisdiction; and upon a second or subsequent conviction in any court of competent jurisdiction shall be punished by a fine of not less than Fifty (\$50.00) Dollars or more than Two Hundred (\$200.00) Dollars."

Section 2. If any Article, Section, provision, subdivision, or part of this Act should be held invalid for any reason, it is the legislative intent that the remainder of the Act shall remain in full force and effect.

Section 3. H. B. No. 110, Chapter 53, Acts of the Third Called Session of the Thirty-eighth Legislature, and all other laws or parts of laws in conflict with this Act are hereby repealed.

Section 4. The fact that many commodities are being sold in this State in package form without the net quantity of contents being marked

thereon, and the further fact of the crowded condition of the calendar create an emergency and an imperative public necessity that the constitutional rule requiring all bills to be read on three several days in each House be suspended, and the same is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

Question—Shall the report be adopted?

Senator Lovelady moved that further consideration of the report be postponed until it has been printed in the Journal.

Senator Sulak moved to table the motion of Senator Lovelady.

Yeas and nays were demanded, and the motion to table was lost by the following vote:

#### Yeas—13

Brownlee	Metcalf
Chadick	Moffett
Formby	Stone
Isbell	Sulak
Kelley	Van Zandt
Lemens	York
Mauritz	

#### Nays—14

Aikin	Lovelady
Beck	Martin
Cotten	Moore
Fain	Ramsey
Graves	Vick
Hazlewood	Weinert
Lanning	Winfield

#### Absent

Shivers

#### Absent—Excused

Hill	Spears
Smith	

Question recurring on the motion of Senator Lovelady, it prevailed.

#### Bills on First Reading

The following bills, previously received from the House were laid before the Senate, read severally first time, and referred to the committees indicated:

H. B. No. 1099, to Committee on Finance.

H. B. No. 1096, to Committee on Military Affairs.



H. B. No. 1088, to Committee on Public Lands and Land Office.

H. B. No. 1089, to Committee on Game and Fish.

H. B. No. 1094, to Committee on State Affairs.

#### Bill and Resolution Signed

The President signed in the presence of the Senate, after their captions had been read, the following enrolled bill and resolution:

S. B. No. 416, A bill to be entitled "An Act to amend Section 7, Article 3266, of the Revised Civil Statutes of 1925; so as to provide for the recording of the decision of commissioners in eminent domain proceedings in the minutes of the county court, and repealing all laws and parts of laws in conflict herewith; and declaring an emergency."

H. C. R. No. 279, Granting each House permission to adjourn from Thursday, June 26, 1941, until Tuesday, July 1, 1941.

#### Concurrence in House Amendments to Senate Bill 464

Senator Fain called S. B. No. 464 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and House amendments before the Senate.

Question—Shall the Senate concur in the House amendments?

The Senate concurred in the House amendments by the following vote:

#### Yeas—28

Aikin	Martin
Beck	Mauritz
Brownlee	Metcalf
Chadick	Moffett
Cotten	Moore
Fain	Ramsey
Formby	Shivers
Graves	Stone
Hazlewood	Sulak
Isbell	Van Zandt
Kelley	Vick
Lanning	Weinert
Lemens	Winfield
Lovelady	York

#### Absent—Excused

Hill	Spears
Smith	

#### Communication to State Department of Public Welfare

Senator Van Zandt submitted at this time, the following communication, which was read to the Senate:

Washington, D. C.,  
June 28, 1941.

John Smith Murchison, Executive Director, State Department of Public Welfare, Austin, Texas.

Re: Your letter June 23, 1941, and attachments, requesting Federal Matching Old Age Assistance for six months July through December, 1941. As you have been informed, present State plan will not be in conformity with Federal Act after July 1, 1941. Your request for funds, therefore, cannot be approved until board is advised of action taken to correct deficiencies. State Department of Public Welfare and Members of Legislature have been informed of amendments to State plan made necessary (1) by amendments to Social Security Act effective July 1, 1941, regarding consideration of income and resources in determining need of applicants, and maintenance of confidential nature of public assistance records; and (2) by inability of State agency under present legislation to provide funds for administration of Merit system required by Federal amendment of January 1, 1940. Drafts of H. B. 611 and 454, as presented for review by Board, were found to provide adequate basis for conformity with requirements of above amendments to Social Security Act.

In addition, serious questions relating to efficient administration are raised by provisions of S. B. 423 which limits administrative expenses to three per cent. Your previous limitation of five per cent, as you know has resulted in serious difficulties in maintenance of adequate standards of administration. Now, with prospect of addition to case load of approximately 40,000 new cases during six months June 30 to December 31, 1941, as indicated in grant estimates, it can safely be stated that three per cent limitation of appropriation for administration will not enable State to conform to standards of efficient administration required by Social Security Act. Line-Item appropriations covering salaries for specific positions do not include adequate supervisory staff to assure effective operation. Furthermore, State agency's plan for personnel administration has been ac-



cepted and Federal funds have been made available with understanding that appropriate plan provisions and funds enabling participation in plan for merit administration would be provided during current session of Legislature.

JANE M. HOEY.

**Report of Conference Committee on House Bill 831**

Senator Martin submitted at this time the following report:

Committee Room,  
Austin, Texas,  
June 26, 1941.

Hon. Coke R. Stevenson, President of the Senate.

Hon. Homer Leonard, Speaker of the House of Representatives.

Gentlemen: We, your Free Conference Committee appointed to adjust the differences between the House and the Senate on H. B. No. 831, have met and recommend that said H. B. No. 831 be passed in the form hereto attached.

MARTIN,  
VICK,  
MOFFETT,  
STONE,  
LOVELADY,

On the part of the Senate;

BOONE,  
GOODMAN,  
SIMPSON,  
McALISTER,  
LOVE,

On the part of the House.

H. B. No. 831, A bill to be entitled "An Act authorizing cities having a population of fifty thousand (50,000) inhabitants or more, according to the last preceding or any future Federal census, to pass ordinances, criminal and otherwise, under the general police power, to promote and protect the safe and efficient operation of all publicly owned or publicly operated airports, flying fields, and landing fields lying within a distance of ten (10) miles in air line from the ordinary limits of such cities, and particularly the power to limit the height of any building, structure, or obstruction within three thousand (3,000) feet of the exterior limits of said airports, flying fields, and landing fields authorizing the policing of such territory; prohibiting taxing of property in said territory; providing the Act shall not prevent extension of city limits for municipal purposes when

same may be legally done; declaring this Act to be severable; providing that the terms of this Act shall not apply to territory within an incorporated city or town and authorizing such incorporated city or town to limit the height of structures; providing for recourse in the event of damage, injury, or reduction of property value under this Act; making this Act cumulative of all other applicable laws; and declaring an emergency."

Be It Enacted by the Legislature of the State of Texas:

Section 1. For the purpose of securing and maintaining the safe and efficient operation and maintenance of all publicly owned or publicly operated airports, flying fields, and landing fields located within a distance of ten (10) miles, computed by air line, from the then existing city limits of any city in the State of Texas having a population of fifty thousand (50,000) inhabitants or more according to the last preceding or any future Federal census and to protect the safety, lives, and property of persons owning property in the vicinity of such airports, flying fields, and landing fields from and after the passage of this Act, said cities, through their city councils, shall have the right, power, and authority to pass, by criminal ordinance and otherwise, such ordinances under the general police power as may be necessary to promote and protect the safe and efficient operation of said publicly owned or publicly operated airports, flying fields, and landing fields, and to promote and protect all airplanes and other flying craft in taking off from and landing at said airports, flying fields and landing fields, and particularly including the right to regulate and limit the height of any building, structure, or other obstruction of whatever nature to be erected and to be located within a distance of three thousand (3,000) feet from the exterior limits of such airport, flying field, or landing field to a height not to exceed thirty-five (35) feet within a radius of two hundred (200) feet surrounding said airport, flying field, or landing field, to a height not to exceed fifty (50) feet within a radius of two hundred (200) to five hundred (500) feet surrounding said airport, flying field or landing field, and to a height not to exceed seventy-five (75) feet within a radius of five hundred (500) to three thousand (3,000) feet

surrounding said airport, flying field, or landing field, meaning from the ground level to the highest portion of any such building, structure, or obstruction.

Sec. 2. Said cities shall have no right to tax any property over which any jurisdiction is exercised under this Act unless and until such property be within the line and limits of the general city limits or boundaries as provided by law.

Sec. 3. Nothing in this Act shall prevent the extension of the general and ordinary limits of such cities for all municipal purposes if and when same shall be legally done.

Sec. 4. The power herein granted shall not authorize the exercise of jurisdiction for the limited purposes herein named over any land or area which is already a part of any other city or town, whether incorporated under the general laws or under special laws, but any such city or town may pass such ordinance as may be necessary to control the height of buildings within its corporate limits.

Sec. 5. Provided further that, in the event any city passing an ordinance under the authority granted in this Act, which results in damage, injury, or reduction of value to any property covered by any zoning drawn or enacted under the provisions of this Act, then the owner of said property shall have the right to bring a suit in the District Court in the county in which said property is located for such damages, and said city passing said ordinance shall be liable to and responsible to said property owner for whatever damage, injury, or loss or reduction of value to such property to the owner thereof. Authority and permission are hereby and herein granted for said property owner to bring such suit, and said cause shall be tried in the same manner as any other civil suit, and all parties thereto shall have the same right of appeal as in other civil suits involving matters within the jurisdiction of the District Court.

Sec. 6. The provisions of this Act are severable and in the event that any provision thereof should be declared void or unconstitutional, it is hereby declared that the remaining provisions would have been enacted notwithstanding such judicial determination of the invalidity of any particular provision or provisions in any

respect, and said Sections shall remain in full force and effect.

Sec. 7. This Act shall be and is hereby declared to be cumulative of all other applicable laws on the subject.

Sec. 8. The fact that there is a rapid increase in the use of publicly owned and publicly operated airports, flying fields, and landing fields by aircraft of the United States government in its national defense program, as well as by the public generally, and the fact that the safety of the public and the safe and efficient operation and maintenance of such airports, flying fields, and landing fields depend on the proper exercise of the power herein granted by cities create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read in each House on three several days be suspended, and the same is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

Senator Martin moved that the report be adopted.

The motion prevailed by the following vote:

Yeas—28

Aikin	Martin
Beck	Mauritz
Brownlee	Metcalfe
Chadick	Moffett
Cotten	Moore
Fain	Ramsey
Formby	Shivers
Graves	Stone
Hazlewood	Sulak
Isbell	Van Zandt
Kelley	Vick
Lanning	Weinert
Lemens	Winfield
Lovelady	York

Absent—Excused

Hill	Spears
Smith	

#### Signing of Bills and Resolutions

The President signed in the presence of the Senate after their captions had been read the following enrolled bills and resolutions:

H. B. No. 524, A bill to be entitled "An Act amending Article 3899, Revised Civil Statutes of Texas, 1925, as amended by Chapter 311, Acts of the Forty-fourth Legislature, Regular Session, and Chapter 465, Acts of the Second Called Session, Forty-fourth Legislature; and by Chapter

498, Acts of the Forty-fifth Legislature, to provide that premium on official bonds for county treasurers, county auditors, county road commissioners, county school superintendents, and hide and animal inspectors, and their deputies, shall be paid from county funds; and declaring an emergency."

H. B. No. 626, A bill to be entitled "An Act to declare valid and legal the establishment and organization of housing authorities, all bonds, notes, contracts, agreements, obligations, and undertakings of such housing authorities, and all proceedings, acts, and things heretofore undertaken, performed or done with reference thereto; and declaring an emergency."

H. B. No. 998, A bill to be entitled "An Act authorizing the separation or divorcement of public schools from municipal control in municipal school districts entirely surrounded by a county line common school district, pursuant to an election to be held for that purpose; defining the terms 'municipal district' and the term 'governing body' of the city or town; etc.; and declaring an emergency."

H. B. No. 1061, A bill to be entitled "An Act to amend Section 1 of S. B. No. 41, Acts of the Forty-second Legislature, Regular Session, approved May 5, 1931, being an Act defining Group Life Insurance; providing that no policy of Group Life Insurance shall be issued or delivered unless and until a copy of the form thereof has been filed with the Life Insurance Commissioner and formally approved by him, stipulating the provisions which must be contained in such policy; providing the manner of paying the proceeds of any such insurance; providing the method of computing the reserves on such policies; prohibiting the issuance of any contract of Life Insurance covering a group except as provided by the provisions of the Act; and declaring an emergency."

H. C. R. No. 251, Authorizing certain correction in H. B. No. 998.

H. C. R. No. 269, Instructing the Enrolling Clerk to make certain corrections in H. B. No. 524.

#### Senate Bill 506 on First Reading

Senator Graves moved that Section 5 of Article 3 of the Constitution be suspended to permit his introducing a bill, the provisions of which he explained.

The motion prevailed by the following vote:

Yeas—28

Aikin	Martin
Beck	Mauritz
Brownlee	Metcalfe
Chadick	Moffett
Cotten	Moore
Fain	Ramsey
Formby	Shivers
Graves	Stone
Hazlewood	Sulak
Isbell	Van Zandt
Kelley	Vick
Lanning	Weinert
Lemens	Winfield
Lovelady	York

Absent—Excused

Hill	Spears
Smith	

The following bill then was introduced, read first time and referred to the Committee on Counties and County Boundaries:

By Senator Graves.

S. B. No. 506, A bill to be entitled "An Act to amend Section 1 of Chapter 88, page 189, Special Laws, Forty-second Legislature, Regular Session, 1931, as amended by S. B. No. 369, Acts of the Regular Session of the Forty-seventh Legislature, 1941, (Article 5138a, Revised Civil Statutes of Texas) to empower and authorize counties having a population of not less than three hundred ninety thousand (390,000), and not more than five hundred thousand (500,000), according to the last preceding Federal census, and containing a city having a population of not less than two hundred ninety thousand (290,000), and not more than three hundred fifty thousand (350,000), according to the last preceding Federal census, jointly with such city to establish, own and operate a parental home and school for the training of dependent and delinquent youth resident of that county or city; and declaring an emergency."

#### Senate Bill 498 on Second Reading

Senator Hazlewood moved that the regular order of business be suspended to permit consideration of S. B. No. 498 at this time.

The motion prevailed by the following vote:

Yeas—28

Aikin	Brownlee
Beck	Chadick

Cotten	Metcalf
Fain	Moffett
Formby	Moore
Graves	Ramsey
Hazlewood	Shivers
Isbell	Stone
Kelley	Sulak
Lanning	Van Zandt
Lemens	Vick
Lovelady	Weinert
Martin	Winfield
Mauritz	York

Absent—Excused

Hill	Spears
Smith	

The President laid before the Senate on its second reading and passage to engrossment:

S. B. No. 498, A bill to be entitled "An Act amending H. B. No. 271, which was passed by the Forty-seventh Legislature, 1941, which became effective April 18, 1941, for the purpose of correcting a clerical error made in said bill; and declaring an emergency."

The bill was read second time.

Senator Hazlewood offered the following amendment to the bill:

Amend Section 1 of S. B. No. 498 so that items 3 and 4 will read as follows:

- "3. Deputy clerk or stenographer \$1,800.00 \$1,800.00  
4. Deputy clerk or stenographer \$1,500.00 \$1,500.00"

The amendment was adopted.

The bill was passed to engrossment.

#### Senate Bill 498 on Third Reading

Senator Hazlewood moved that the constitutional rule requiring bills to be read on three several days be suspended and that S. B. No. 498 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—28

Aikin	Kelley
Beck	Lanning
Brownlee	Lemens
Chadick	Lovelady
Cotten	Martin
Fain	Mauritz
Formby	Metcalf
Graves	Moffett
Hazlewood	Moore
Isbell	Ramsey

Shivers	Vick
Stone	Weinert
Sulak	Winfield
Van Zandt	York

Absent—Excused

Hill	Spears
Smith	

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—28

Aikin	Martin
Beck	Mauritz
Brownlee	Metcalf
Chadick	Moffett
Cotten	Moore
Fain	Ramsey
Formby	Shivers
Graves	Stone
Hazlewood	Sulak
Isbell	Van Zandt
Kelley	Vick
Lanning	Weinert
Lemens	Winfield
Lovelady	York

Absent—Excused

Hill	Spears
Smith	

#### Report of Standing Committee on House Bill 1099

Senator Aikin, by unanimous consent, submitted at this time the following report:

Austin, Texas,  
June 30, 1941.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Finance, to whom was referred

H. B. No. 1099, A bill to be entitled "An Act making an appropriation for the support and maintenance of the Bedding Division of the State Department of Health for the two-year period beginning September 1, 1941, and ending August 31, 1943, and for other purposes; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

AIKIN, Chairman.

**House Bill 1099 on Second Reading**

Senator Aikin moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 1099 be placed on its second reading and passage to third reading and on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—28

Aikin	Martin
Beck	Mauritz
Brownlee	Metcalfe
Chadick	Moffett
Cotten	Moore
Fain	Ramsey
Formby	Shivers
Graves	Stone
Hazlewood	Sulak
Isbell	Van Zandt
Kelley	Vick
Lanning	Weinert
Lemens	Winfield
Lovelady	York

Absent—Excused

Hill	Spears
Smith	

The President laid H. B. No. 1099 before the Senate on its second reading and passage to third reading.

The bill was read second time and was passed to third reading.

**House Bill 1099 on Third Reading**

The President then laid H. B. No. 1099 before the Senate on its third reading and final passage.

The bill was read third time and was passed.

**Record of Vote**

Senators Lovelady and Vick asked to be recorded as voting "nay" on the passage of the bill.

**House Bill 1047 on Second Reading**

On motion of Senator Vick and by unanimous consent, the regular order of business was suspended to permit consideration of H. B. No. 1047 at this time.

The President laid before the Senate on its second reading and passage to third reading:

H. B. No. 1047, A bill to be entitled "An Act providing for the extension of the primary term of oil, gas or mineral leases heretofore or here-

after issued by the Commissioners of the General Land Office which lease has been, is, or which may hereafter become involved in litigation relating to its validity or to the authority of the Commissioner of the General Land Office to lease the land covered thereby, for a period of five (5) years; providing the terms and conditions upon which such lease may be extended; providing the time for the application for such extension; providing for the exploration and development of lands covered in the lease during the pendency of litigation, unless such exploration and development be enjoined by a court of competent jurisdiction without prejudice to the right of the owner of such lease to recover his reasonable costs of such development and the exploration from the production from lands covered by the lease or from the proceeds of sale of production therefrom in case such litigation is finally adjudicated adversely to the owner of the lease; and declaring an emergency."

The bill was read second time and was passed to third reading.

**House Bill 1047 on Third Reading**

Senator Vick moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 1047 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—28

Aikin	Martin
Beck	Mauritz
Brownlee	Metcalfe
Chadick	Moffett
Cotten	Moore
Fain	Ramsey
Formby	Shivers
Graves	Stone
Hazlewood	Sulak
Isbell	Van Zandt
Kelley	Vick
Lanning	Weinert
Lemens	Winfield
Lovelady	York

Absent—Excused

Hill	Spears
Smith	

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

**Message from the House**

A Clerk of the House was recognized by the President to present the following message:

Hall of the House of Representatives,  
Austin, Texas,  
June 30, 1941.

Hon. Coke R. Stevenson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has granted the Enrolling Clerk of the Senate permission to make necessary corrections in caption of S. B. No. 464.

Respectfully submitted,  
E. R. LINDLEY,  
Chief Clerk, House of Representatives.

**Reports of Standing Committees**

Senator Metcalfe, by unanimous consent, submitted at this time the following report:

Senate Chamber,  
Austin, Texas,  
June 26, 1941.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Military Affairs, to whom was referred

H. B. No. 1096, A bill to be entitled "An Act relating to National and State defense; providing for the establishment of a State Council of Defense and of local and district councils of defense; prescribing the powers and duties thereof; providing for the acceptance of gifts and donations and creating a fund therefor; appropriating all monies in said fund; providing a saving clause; repealing all laws or parts of laws inconsistent therewith; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back with the recommendation that it do pass and be printed.

METCALFE, Chairman.

Senator Ramsey, by unanimous consent, submitted at this time the following report:

Austin, Texas,  
June 26, 1941.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Counties and County Boundaries, to whom was referred

S. B. No. 506, A bill to be entitled "An Act to amend Section 1 of Chap-

ter 88, page 189, Special Laws, Forty-second Legislature, Regular Session, 1931, as amended by S. B. No. 369, Acts of the Regular Session of the Forty-seventh Legislature, 1941, (Article 5138a, Revised Civil Statutes of Texas) to empower and authorize counties having a population of not less than three hundred ninety thousand (390,000), and not more than five hundred thousand (500,000), according to the last preceding Federal Census, and containing a city having a population of not less than two hundred ninety thousand (290,000) and not more than three hundred fifty thousand (350,000), according to the last preceding Federal Census, jointly with such city to establish, own and operate a parental home and school for the training of dependent and delinquent youth resident of that county or city; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the House with the recommendation that it do pass and be not printed.

RAMSEY, Chairman.

Senator Beck, by unanimous consent, submitted at this time the following report:

Austin, Texas,  
June 30, 1941.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Constitutional Amendments, to whom was referred

S. J. R. No. 22, Proposing an amendment to Article 3, Section 24 of the Constitution by providing for a regular session of the Legislature, providing for mileage and per diem of the members of the Legislature; fixing the time for an election therefor; prescribing the form of ballot; providing for proclamation of such election and the advertisement thereof; and making an appropriation therefor.

Have had the same under consideration, and we desire to report it back to the Senate with the recommendation that it do pass and be not printed.

BECK, Chairman.

**Report of Conference Committee on House Bill 796**

Senator Moffett moved that the regular order of business be suspended to permit his submitting for consideration by the Senate at this

time the following report of the Conference Committee on H. B. No. 796.

Austin, Texas,  
June 24, 1941.

Hon. Coke R. Stevenson, President of the Senate;

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sirs: We, your Conference Committee, appointed to adjust the differences between the House and Senate on H. B. No. 796, have had the same under consideration and beg to report back with the recommendation that the said H. B. No. 796 be adopted in the form herewith attached.

Respectfully submitted,

MOFFETT,  
CHADICK,  
SMITH,  
BECK,

On the part of the Senate;

BELL,  
TAYLOR,  
COKER,  
HARRIS,  
BRUHL,

On the part of the House.

H. B. No. 796, A bill to be entitled "An Act further regulating the traffic in alcoholic liquors in this State by amending the Texas Liquor Control Act in the following particulars: Amend Section 3, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by Section 1, Chapter 448, Acts of the Regular Session of the Forty-fifth Legislature, defining the term 'open saloon,' naming unlawful acts, and omitting special penalty; amend Section 4. (a), Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by Section 4, Chapter 448, Acts of the Regular Session of the Forty-fifth Legislature, providing for permits for classified privileges; amending Section 13, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by Section 14, Chapter 448, Acts of the Regular Session of the Forty-fifth Legislature, declaring liquor permits and licenses special privileges and providing for issuance of such licenses and permits to successors in interest under certain conditions, providing conditions as to the holding of permits; amend Section 15 (b) as provided in Section 18, Chapter 448, Acts of the

Regular Session of the Forty-fifth Legislature, amending Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, providing time limitation for permits, the payment of fees, requiring permit for each outlet and for manner and method of refunding permit fees paid where application for permit is rejected; amend Section 15 (c) as provided in Section 19, Chapter 448, Acts of the Regular Session of the Forty-fifth Legislature, amending Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, and as amended by Section 4, Chapter 13, Acts of the First Called Session of the Forty-fifth Legislature, providing for manner and method of issuance of permits and renewal thereof, providing for method of changing location where permit is used; amend Section 30, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by Section 37, Chapter 448, Acts of the Regular Session of the Forty-fifth Legislature, providing custody and sale of alcoholic beverages and property forfeited to the State as nuisances, providing for transfer of title thereof, providing for destruction of alcoholic beverages unfit for consumption, allocating funds and making appropriation thereof under certain conditions; amend Sections 32, 33, 35, 37, 38 and 39, all of Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, providing for manner and method of calling and holding local option elections to legalize or prohibit the sale of alcoholic beverages in this State, providing for the issuance of petitions, verification thereof, and limitation of use of such petitions in respect to the calling of local option elections, providing that no subsequent election upon the same issue in the same political subdivision shall be held within two (2) years from the date of the preceding local option election, providing for the method of establishing voting places and manner of supervision of local option elections, providing for the time and method of declaring result of election, posting of notices and certification thereof to the Secretary of State; amend Section 41, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by Section 39, Chapter 448, Acts of the Regular Ses-



sion of the Forty-fifth Legislature, providing penalties upon conviction of violation of the Act; amend Section 42, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by Section 41, Chapter 448, Acts of the Regular Session of the Forty-fifth Legislature, providing for seizure and forfeiture of alcoholic beverages and property used in maintenance of a nuisance, the conditions under which the same may be held, providing suits for forfeiture of beverages and property constituting a nuisance, providing for notice and hearing for judicial determination of issues, providing for intervention of lien holders for the sale of property under execution, allocating proceeds of sale, and for conveyance of title to property so sold; amend Section 6, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by Section 6, Chapter 448, Acts of the Regular Session of the Forty-fifth Legislature, establishing duties and powers of the Texas Liquor Control Board, and for the adoption of rules and regulations regulating quality, purity, identity, and advertising of alcoholic beverages, providing means of standardizing liquor containers; amend Section 11, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by Section 11, Chapter 448, Acts of the Regular Session of the Forty-fifth Legislature, establishing qualifications for liquor permits; amend Section 12, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by Section 12, Chapter 448, Acts of the Regular Session of the Forty-fifth Legislature, providing causes for cancellation or suspension of liquor permits; amend subsection (9) of Section 15, as provided in Section 16, Chapter 448, Acts of the Regular Session of the Forty-fifth Legislature, as amending subsection (h) Section 15, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, privileging issuance of Agent's Permit and naming conditions incident to use of such permit, declaring certain acts to be unlawful; amend Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by Article III, Chapter 495, Acts of the Third Called Session of the Forty-fourth Legisla-

ture, and by Chapters 32 and 448, Acts of the Regular Session of the Forty-fifth Legislature, and by Chapter 13, Acts of the First Called Session of the Forty-fifth Legislature, and by House Bills 8 and 373, Acts of the Regular Session of the Forty-seventh Legislature, by the addition of new Sections 15½, 41-A, 43-A and 43-B, providing for issuance of permit authorizing non-residents to ship liquor and market the same in this State, providing qualifications for such permits, providing for service of notice on action to refuse, cancel or suspend permit sought or held by non-resident person, authorizing adoption of rules and regulations, providing unlawful acts, providing for seizure and forfeiture of illicit beverages, providing for examination of records and witnesses of non-resident permit holders and for privacy of findings, defining terms, providing regulation of non-resident sellers of liquor, requiring Manufacturer's Agent's Permit of persons soliciting orders for liquor for non-residents within this State, establishing qualifications for permits and naming unlawful acts, providing for enhancement of penalties upon subsequent convictions under this Act, providing that no permit or license may be issued for use at any location under certain conditions, requiring United States citizenship as qualification for permit or license; amend Section 17, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fifth Legislature, as amended by Section 22, Chapter 448, Acts of the Regular Session of the Forty-fifth Legislature, and by Section 5, Chapter 13, Acts of the First Called Session of the Forty-fifth Legislature, naming unlawful acts; amend subsection (12), Section 15, as provided in Section 16, Chapter 448, Acts of the Regular Session of the Forty-fifth Legislature, amending subsection (k), Section 15, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by Section 2, Chapter 13, Acts of the First Called Session of the Forty-fifth Legislature, providing Private Carrier Permit, qualifications for issuance, and conditions as to the use of such permit; amend Section 45, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by Section 43, Chapter 448, Acts of the Regular Session of the Forty-fifth Legislature, pro-

viding for the manufacture of alcoholic beverage stamps, the custody and sale thereof, and requiring the making and keeping of records pertaining thereto, providing for the adoption of regulations for issuance of stamps for sale at ports of entry, providing for refunds under certain conditions of liquor tax previously paid; amend Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by Article III, Chapter 495, Acts of the Third Called Session of the Forty-fourth Legislature, and by Chapters 32 and 448, Acts of the Regular Session of the Forty-fifth Legislature, and by Chapter 18, Acts of the First Called Session of the Forty-fifth Legislature, and by House Bills 8 and 373, Acts of the Regular Session of the Forty-seventh Legislature, by the addition of a new Section 16-A declaring legislative policy in certain respects and providing for regulation of credits, discounts, subsidies, and rebates; amend Section 29, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, declaring certain facts and things to constitute a nuisance, providing for prosecution and abatement by judicial proceedings, requiring bonds upon appeal and upon final judgment, providing for forfeiture of bonds; amend Section 1, Article II, as provided in Section 49, Chapter 448, Acts of the Regular Session of the Forty-fifth Legislature, amending Article II, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, defining terms; amend subsection (f) of Section 3, Article II, as provided in Section 49, Chapter 448, Acts of the Regular Session of the Forty-fifth Legislature, amending Article II, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, providing for Branch License to sell beer and method of obtaining such license, and conditions under which such license may be exercised; amend Article II, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by Article III of Chapter 495, Acts of the Third Called Session of the Forty-fourth Legislature, and by Chapter 13, Acts of the First Called Session of the Forty-fifth Legislature, and by Chapter 448, Acts of the Regular Session of the Forty-fifth Legislature, and by S. B. No. 414, Acts of the Regular Session of the Forty-seventh Legislature, by

adding new Sections 5-A, 10½-A, 19-A, 19-B and 23½, providing qualifications for licenses under certain conditions, authorizing cities and towns to regulate the sale of beer under certain conditions, providing for discretionary authority to suspend licenses in lieu of cancellation, defining the meaning of certain conditions and phrases and naming unlawful acts; amend Section 6 of Article II, as provided in Section 49, Chapter 448, Acts of the Regular Session of the Forty-fifth Legislature, amending Article II, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, providing for manner and method of applying for licenses to sell beer, providing for contest of right to hold license, providing for hearings before county judge, the payment of license fees, the condition under which beer licenses may be issued or denied and reasons therefor, providing for right of appeal from judgment of county judge on application for beer license and conditions to be observed during pendency of appeal, and for refund of license fees paid under certain conditions, providing for court costs and filing fees; amend Section 26 of Article II, as provided in Section 49, Chapter 448, Acts of the Regular Session of the Forty-fifth Legislature, amending Article II, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, and as amended by Section 20, Chapter 13, Acts of the First Called Session of the Forty-fifth Legislature, providing penalty for violation of Act; amend Section 7 of Article II, as provided in Section 49, Chapter 448, Acts of the Regular Session of the Forty-fifth Legislature, amending Article II, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, and as amended by Sections 13 and 14, Chapter 13, Acts of the First Called Session of the Forty-fifth Legislature, providing termination dates of licenses issued and for manner and method of renewal of licenses, for the payment of filing fees, requiring separate license for each place of business, providing manner and method of changing location at which license may be exercised, restricting use of license under certain conditions, providing for issuance of duplicate licenses upon loss or destruction of original licenses; amend Section 24 of Article II, as provided in Section 49, Chapter 448, Acts of the Regular Session of

the Forty-fifth Legislature, amending Article II, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, establishing marketing practices as to the wholesale sale of beer, prohibiting interlocking ownerships, subsidies, loans and guaranties, prohibiting consignment sales, prohibiting the furnishing, giving, lending or selling of equipment or fixtures under certain conditions, prohibiting allowances and rebates for advertising and distribution service, prohibiting the offering or giving of prizes and premiums, restricting and regulating the advertising of beer, prohibiting exclusive outlets and commercial bribery, naming unlawful acts, regulating the labeling of beer, providing for rules and regulations relaxing restrictions under certain conditions, providing for regulation of deposits on returnable containers; providing effective date of certain portions of this Act; providing savings clauses; repealing laws in conflict herewith; and declaring an emergency."

Be It Enacted by the Legislature of the State of Texas:

Section 1. That Section 3 of Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by Section 1 of Chapter 448, being H. B. No. 5, Acts of the Regular Session of the Forty-fifth Legislature, be further amended so as to hereafter read as follows:

"Sec. 3. (a). The term 'open saloon' as used in this Act, means any place where any alcoholic beverage whatever, manufactured in whole or in part by means of the process of distillation, or any liquor composed or compounded in part of distilled spirits, is sold or offered for sale for beverage purposes by the drink or in broken or unsealed containers, or any place where any such liquors are sold or offered for sale for human consumption on the premises where sold.

"(b). It shall be unlawful for any person, whether as principal, agent, or employee, to operate or assist in operating, or to be directly or indirectly interested in the operation of any open saloon in this State.

"(c) It shall be unlawful for any person to whom a Wine and Beer Retailer's Permit or Beer Retailer's License has been issued or any officer, agent, servant, or employee thereof to

have in his possession on the licensed premises, any distilled spirits or any liquor containing alcohol in excess of fourteen (14) per centum by volume."

Sec. 2. That Section 4 (a), Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by Section 4, Chapter 448, being H. B. No. 5, Acts of the Regular Session of the Forty-fifth Legislature, be further amended so as to hereafter read as follows:

"Sec. 4 (a). It shall unlawful for any person to manufacture, distill, brew, sell, possess for the purpose of sale, import into this State, export from the State, transport, distribute, warehouse, store, solicit orders for, take orders for, or for the purpose of sale to bottle, rectify, blend, treat, fortify, mix, or process any liquor in any wet area without first having procured a permit of the class required for such privilege."

Sec. 3. That Section 13, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by Section 14, Chapter 448, being H. B. No. 5, Acts of the Regular Session of the Forty-fifth Legislature, be further amended so as to hereafter read as follows:

"Sec. 13. (a). Any permit granted under this Act, except Wine and Beer Retailer's Permits issued to other than a railway dining, buffet, or club car, shall be good for the year in which issued and ending on August 31st of each year at twelve o'clock midnight.

"(b). Any permit or license granted under the terms of either Article I or Article II of this Act shall be a purely personal privilege, revocable in the manner and for the causes herein stated, subject to appeal as hereinafter provided, and shall not constitute property, nor shall it be subject to execution, nor shall it descend by the laws of testate or intestate devolution, but shall cease upon the death of the permittee or licensee; provided, however, that the board shall prescribe rules and regulations whereby a new permit or license may be applied for and issued without requiring the payment of additional permit or license fees as to unexpired periods of affected permits or licenses upon death of the holder of any such license or permit, or of any person having an interest therein, or upon the dissolution of any partnership, or

under conditions involving receivership or bankruptcy, to the end that the value or cost of the unexpired portion of the permit or license shall not be lost to the successors in interest of any business involved, and that the conduct of said business may be continued without interruption; but further provided that such privilege shall not be extended to the purchaser, in whole or in part, of any business operating under an existing permit or license; and further providing that as to such application as may be filed with the County Judge a fee shall be required to be paid as in the case of an original application for a beer license; and further provided that any successor in interest must meet all requirements of law applicable to the holder of a permit or license under the terms of this Act, except that the executor, administrator, trustee or receiver acting under any judicial proceedings shall not be required to be domiciled in the county in which the business is located.

"(c). It is further provided that the board may, by rule and regulation, provide for the manner and time, not exceeding thirty (30) days, in which the successor in interest of any deceased, insolvent, or bankrupt permittee or receiver, or of any person whose permit or license has been cancelled, may dispose in bulk of alcoholic beverages left on hand at the termination of the use of any affected permit or license.

"(d). It is expressly provided that the acceptance of a permit or license issued under either Article I or Article II of this Act shall constitute an express agreement and consent on the part of the permittee or licensee that the Board, any of its authorized representatives, or any peace officer shall have at all times the right and privilege of freely entering upon the licensed premises for the purpose of conducting any investigation or for inspecting said premises and for the further purpose of performing any duty imposed upon the board, its representatives, or any peace officer by this Act or by any rule and regulation of the board."

This Section shall take effect and be in force at midnight August 31, 1941.

Sec. 4. That Section 15 (b), as appearing in Section 18, Chapter 448, being H. B. No. 5, Acts of the Regular Session of the Forty-fifth Legis-

lature, amending Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, be further amended so as to hereafter read as follows:

"Sec. 15 (b). All permit fees levied by this Act except Wine and Beer Retailer's Permits issued to other than railway dining, buffet, or club cars shall be paid in advance for one year unless such fee be collected for only a portion of the year. In such event, the fee required shall cover the period of time from the date of the permit to midnight of August 31st succeeding, and only the proportionate part of the fee levied for such permit shall be collected. The fractional part of any month remaining shall be counted as one month in calculating the fee that shall be due. A separate permit shall be obtained and a separate fee paid for each outlet of liquor in this State. No refund of permit shall for any reason be made by the board, except when the permittee is prevented from continuing in business by reason of the result of a local option election, or upon the rejection of an application for a permit by the board or administrator. So much of the proceeds derived from permit fees under the provisions of this Article as may be necessary are hereby appropriated for that purpose."

Sec. 5. That Section 15 (c), as appearing in Section 19, Chapter 448, being H. B. No. 5, Acts of the Regular Session of the Forty-fifth Legislature, amending Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, and as amended by Section 4, Chapter 13, being S. B. No. 20, Acts of the First Called Session of the Forty-fifth Legislature, be further amended so as to hereafter read as follows:

"Sec. 15 (c) . (1) All permits provided for in Article I of this Act, except Wine and Beer Retailer's Permits other than for railway dining, buffet, or club cars shall be applied for and obtained from the board. Notice of all applications filed with the board, except Wine and Beer Retailer's, Carrier's, Private Carrier's, Industrial, Agent's, Manufacturer's Agent's, Bonded Warehouse and Storage Permits, shall be given to the County Judge of the county wherein applicant's place of business is located, except where such notice is waived in writing by the County Judge. Such notice shall be given by the board.

Each application shall be accompanied by a cashier's check or a money order for the amount of the fee due the State, payable to the order of the State Treasurer.

"(2) No applicant for renewal of permit shall be required to publish notice of such application for renewal. Applications for renewal of permits shall be made under oath and shall contain all information required of the applicant by the board or administrator showing such applicant is not disqualified from holding a permit under this Act. Such application shall be accompanied by proper bond and remittance of required fee. Upon finding that such applicant is qualified under the terms of this Act, the board or administrator is authorized to issue the permit sought to be renewed. All application forms shall be furnished by the board.

"(3) In the event any person holding a permit under the terms of this Article shall desire to change the location of his place of business, he may file his application for such change with the board on a form to be prescribed by the board, and the board or administrator may deny such application upon any grounds for which an original may be denied. Any such application may be subject to protest and hearing as though it were an application for a new permit."

Sec. 6. That Section 30, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by Section 37, Chapter 448, being H. B. No. 5, Acts of the Regular Session of the Forty-fifth Legislature, be further amended so as to hereafter read as follows:

"Sec. 30. (a). All alcoholic beverages and the containers thereof, equipment and other property forfeited to the State as nuisances, unless otherwise herein provided, and all illicit beverages and the containers thereof forfeited to the State, shall be turned over to the Board for public or private sale in such place or manner as it may deem best; provided, that the board shall exercise diligent effort to obtain the best available price for anything thus sold; provided, further, that any bill of sale executed by the board or administrator shall convey a good and valid title to the purchaser as to any such property sold. The board shall sell alcoholic beverages only to the holders of quali-

fied permits or licenses. No alcoholic beverage unfit to be sold for public consumption or of illicit manufacture, may be sold by the board, but are declared a nuisance per se and may be destroyed by the board. The certificate of any qualified chemist shall be accepted by the board as evidence of unfitness of such alcoholic beverages.

"(b). All moneys derived from the sale of any beverages or property shall be placed in a separate fund in the State Treasury, against which may be drawn all expenses incurred in the storage, assembling, custody, and sale thereof, and for other expenses which may be incurred by the board in the investigation of, the obtaining of evidence and acting against any violations of the provisions of this Act. All money remaining in said fund on each August 31st not obligated under the provisions hereof shall be transferred by the State Treasurer to the Old Age Assistance Fund for the benefit thereof. The funds herein appropriated shall be independent of and in addition to any other appropriations."

Sec. 7. That Sections 32, 33, 35, 37, 38, and 39, all of Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, be amended so as to hereafter read as follows:

"Sec. 32. The commissioners' court of each county in the State upon its own motion may order an election wherein the qualified voters of any county or of any justice precinct or incorporated town or city may by the exercise of local option determine whether or not the sale of alcoholic beverages of one or more of the various types and alcoholic content shall be prohibited or legalized within the prescribed limits of such county, justice precinct, or incorporated town or city; and local option elections shall be called by the commissioners' court upon proper petition as herein provided. Upon the application of any one or more qualified voters of any county, justice precinct, or incorporated town or city, the county clerk of such county shall issue to the applicant or applicants a petition to be circulated among the qualified voters thereof for the signatures of those qualified voters in such area who desire that a local option election be called therein for the purpose of determining whether the sale of alcoholic beverages of one or more of

the various types and alcoholic content shall be prohibited or legalized within the prescribed limits of such county, justice precinct or incorporated town or city. The petition so issued shall clearly state the issue or issues to be voted upon in such election; each such petition shall show the date of its issue by the county clerk and shall be serially numbered, and each page of such petition shall bear the same date and serial number, and shall bear the seal of the county clerk. The county clerk shall deliver as many copies of said petition as may be required by the applicant and each copy shall bear the date, number and seal on each page as required in the original. The county clerk shall keep a copy of each such petition and a record of the applicants therefor. When any such petition so issued shall within one hundred and twenty (120) days after the date of issue be filed with the clerk of the commissioners' court bearing the actual signatures of as many as twenty (20) per cent of the qualified voters in any such county, justice precinct, incorporated town or city, together with a notation showing the voting precinct wherein each of the said signers resides, taking the votes for Governor at the last preceding general election as the basis for determining the qualified voters in any such county or political subdivision, it is hereby required that the commissioners' court at its next regular session shall order a local option election to be held upon the issue or issues set out in such petition. It shall be the duty of the county clerk to check the names of the signers of any such petition and the voting precincts in which they reside to determine whether or not the signers of such petition are in fact qualified voters of the county or political subdivision at the time such petition is presented, and to certify to the commissioners court the number of qualified voters signing such petition. No signature shall be counted where there is reason to believe that it is not the actual signature of the purported signer. The minutes of the commissioners' court shall record the date any such petition is presented, the names of the signers thereof, and the action taken with relation to the same. No subsequent election upon the same issue in the same political subdivision shall be held within two (2) years from the date of the preceding local

option election in any county or political subdivision thereof."

"Sec. 33. When the commissioners' court shall order an election as herein provided for, it shall be the duty of said court to order such election to be held at the voting places within such county or subdivision thereof, upon a day not less than thirty (30) nor more than sixty (60) days from the date of said order, and the order thus made shall state the issue or issues to be voted upon in such election, and said order shall be held to be prima facie evidence that all provisions necessary to give it validity or to clothe the court with jurisdiction to make it valid, have been duly complied with; provided that such court shall appoint such officers to hold such elections as are now required to hold general elections."

"Sec. 35. (a) At said election the vote shall be by official ballot which shall have printed or written thereon at the top thereof in plain letters the words 'Official Ballot.' Said ballot shall have also written or printed thereon the issue or issues appropriate to the election order as provided in Section 40 of this Act, and the clerk of the court shall furnish the presiding officer of each voting box within such subdivision or county with a number of such ballots, to be not less than twice the number of qualified voters at such voting boxes, and the presiding officer of each voting box shall write his name on the back of each ballot before delivering the same to the voter, and each person offering to vote at each election shall, at the time he offers to vote, be furnished by such presiding officer with one such ballot; and no voter shall be permitted to depart with such ballot and shall not be assisted in voting by any person except such presiding officer or by some officer assisting in the holding of such election, under the direction of such presiding officer when requested to do so by such voter.

"(b). In elections to legalize the sale of alcoholic beverages those in favor of such legalization shall erase the words 'Against legalizing the sale of, etc.' by making a pencil mark through same; and those who oppose such legalization shall erase the words 'For legalizing the sale of, etc.' by making a pencil mark through same.

"In elections to prohibit the sale of alcoholic beverages those who



favor such prohibition shall erase the words 'Against prohibiting the sale of, etc.' by making a pencil mark through same; and those who oppose such prohibition shall erase the words 'For prohibiting the sale of, etc.' by making a pencil mark through same. No ballot shall be received or counted by the officers at such elections that is not an official ballot, and that has not the name of the presiding officer of such election written thereon in the handwriting of such presiding officer as provided by this Act."

"Sec. 37. Said court shall hold a special session on the fifth day after the holding of said election, or as soon thereafter as practicable, for the purpose of canvassing the votes and certifying the results, and if a majority of the voters favor the issue 'For prohibiting the sale, etc.' or 'Against legalizing the sale, etc.' as to any alcoholic beverages of the various types and alcoholic content, said court shall immediately make an order declaring the results of said vote and absolutely prohibiting the sale of such prohibited type or types of alcoholic beverages within the political subdivision after thirty (30) days from the date of declaring the results thereof, and thereafter until such time as the qualified voters therein may thereafter at the legal election held for such purpose by a majority vote decide otherwise; and the order thus made shall be held as prima facie evidence that all provisions of law have been complied with in giving notice of and holding said election and counting and returning the votes and declaring the results thereof."

"Sec. 38. The order of said court declaring the result and prohibiting the sale of any or all types of alcoholic beverages shall be published by the posting of said order at three (3) public places within the county or the political subdivision in which the election was held, which fact shall be entered by the county judge on the minutes of the commissioners' court. An entry thus made or a copy thereof certified under the hand and seal of the clerk of the court shall be prima facie evidence of such posting."

"Sec. 39. If a majority voting at such election favor the issue 'For legalizing the sale, etc.' or 'Against prohibiting the sale, etc.' as to any alcoholic beverages of the various types and alcoholic content, the court shall make an order declaring the results

and have the same entered of record in the office of the clerk of said court, whereupon it shall be lawful in such political subdivision to manufacture, sell or distribute such type or types of alcoholic beverages as may be favored in the election in accordance with the terms of this Act, until such time as the qualified voters therein may thereafter, at a legal election held for that purpose, by a majority vote decide otherwise, and the order thus made shall be held prima facie evidence that all the provisions of law have been complied with in giving notice of and holding said election and counting and returning the votes and declaring the results thereof. It shall be the duty of the county clerk within three (3) days after the results of any such election have been declared to certify such results to the Secretary of State at Austin."

"Sec. 8. That Section 41, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by Section 39, Chapter 448, being H. B. No. 5, Acts of the Regular Session of the Forty-fifth Legislature, be further amended so as to hereafter read as follows:

"Sec. 41. Any person who violates any provision of this Act for which a specific penalty is not provided shall be deemed guilty of a misdemeanor and upon conviction be punished by fine of not less than One Hundred (\$100) Dollars and not more than One Thousand (\$1,000) Dollars, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment.

"The term 'specific penalty' as used in this Section means and refers only to a penalty which might be imposed as a result of a criminal prosecution."

Sec. 9. That Section 42, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by Section 41, Chapter 448, being H. B. No. 5, Acts of the Regular Session of the Forty-fifth Legislature, be further amended so as to hereafter read as follows:

"Sec. 42. (a) All alcoholic beverages declared by this Act to be a nuisance, and all illicit beverages as defined by this Act, and all equipment, fixtures, and property kept and used in the maintenance of an alleged nuisance may be seized with or without a warrant by any agent or em-



ployee of the Texas Liquor Control Board, or by any peace officer, and any person found in the possession or in charge thereof may be arrested without a warrant. No alcoholic beverages or articles so seized shall be replevied, but shall be stored by the board, or by the sheriff of the county wherein the seizure was made, to be held for final action of the court as hereafter provided.

"(b) It shall be the duty of the Attorney General, the District Attorney, and the County Attorney, or any of them, when notified by the officer making the seizure, or by the Texas Liquor Control Board, that such seizure has been made, to institute a suit for forfeiture of such alcoholic beverages and property, such suit to be brought in the name of the State of Texas in any court of competent jurisdiction in the county wherein such seizure was made. Notice of pendency of such suit shall be served in the manner prescribed by law and the case shall proceed to trial as other civil cases. If upon the trial of such suit it is found that alcoholic beverages or property are a nuisance or were used or kept in maintaining a nuisance, under the terms of this Act, or that the alcoholic beverage is illicit, as defined by this Act, then the court trying said cause shall render judgment forfeiting the same to the State of Texas and ordering the same disposed of as provided for by Section 30 of this Article. The costs of such proceedings shall be paid by the Board, out of funds derived under the provisions of said Section 30, or from any other fund available to the Board for such purpose.

"(c) As to any property or articles upon which there may be a lien, by a bona fide lien holder, the holder of such may intervene to establish his rights and shall be required to show such lien to have been granted in a bona fide manner and without knowledge of the fact at the time of creation of the lien, that any article or property upon which such lien exists had been used or was to be used in violation of this Act. If the holder of any such lien shall intervene, then the court trying said cause shall render judgment forfeiting the same to the State of Texas, and authorizing the issuance of an order of sale directed to the sheriff or any constable of the county wherein the property was seized, commanding such officer

to sell said property in the same manner as personal property is sold under execution. The court may order such property sold in whole or in part as it may deem proper and the sale shall be conducted at the courthouse door. The money realized from the sale of such property shall be applied first to the payment of the costs of suit and expenses incident to the sale and after such expenses have been approved and allowed by the court trying the case, then the further proceeds of such sale shall be used to pay all such liens according to priorities, and any remaining proceeds shall be paid to the Board to be allocated as provided in Section 30 hereof. All such liens against property sold under this Section shall be transferred from the property to the proceeds of its sale.

"(d) The sheriff executing said sale shall issue a bill of sale and certificate shall convey valid and unimpaired title to such property."

Sec. 10. That Section 6, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by Section 6, Chapter 448, being H. B. No. 5, Acts of the Regular Session of the Forty-fifth Legislature, be further amended so as to hereafter read as follows:

"Sec. 6. Among others, the functions, powers, and duties of the board shall include the following:

"(a). To supervise, inspect, and regulate every phase of the business of manufacturing, importation, exportation, transportation, storage, sale, distribution, possession for the purpose of sale, and possession of all alcoholic beverages, including the advertising and labeling thereof, in all respects necessary to accomplish the purposes of this Act. The board is hereby vested with power and authority to prescribe all necessary rules and regulations to that end; to require the filing of such reports and other data by all persons engaged in any phase of the alcoholic beverage business, which it may deem necessary to accomplish the purposes of this Act; to supervise and regulate all licensees and permittees and their places of business in all matters affecting the general public, whether herein specifically mentioned or not, and to authorize its agents, servants, and employees under its direction to carry out the provisions hereof.

"(b). To grant, refuse, suspend, or cancel permits or licenses for the purchase, transportation, importation, sale, or manufacture of alcoholic beverages or other permits in regard thereto.

"(c). To investigate and aid in the prosecution of violations of this Act and other Acts relating to alcoholic beverages, to make seizures of alcoholic beverages manufactured, sold, kept, imported, or transported in contravention hereof, and apply for the confiscation thereof whenever required by this Act, and cooperate in the prosecution of offenders before any court of competent jurisdiction.

"(d). To exercise all other powers, duties, and functions conferred by this Act, and all powers incidental, convenient, or necessary to enable it to administer or carry out any of the provisions of this Act and to publish all necessary rules and regulations.

"(e). In the event the United States Government shall provide any plan or method whereby the taxes on liquor shall be collected at the source the board shall have the right to enter into any and all contracts and comply with regulations, even to the extent of partially or wholly abrogating any provisions hereof which may be in conflict with Federal law or regulations to the end that the board shall receive the portion thereof allocated to the State of Texas, and to distribute the same as in this Act is provided.

"(f). To require by rule and regulation that any liquor sold in this State shall conform in all respects to the advertised quality of such products; to promulgate and enforce rules and regulations governing labeling and advertising of all liquors sold in this State; to adopt and enforce a standard of quality, purity, and identity of all alcoholic beverages and to promulgate all such rules and regulations as shall be deemed necessary to fully safeguard the public health and to insure sanitary conditions in the manufacturing, refining, blending, mixing, purifying, bottling, and rebottling of any alcoholic beverage and the sale thereof; to adopt and enforce rules and regulations to standardize the size of containers in which liquors may be sold in this State, as well as to any representations required or allowed to be displayed or shown thereon or therein; provided that in respect to the sale of wine to retail

dealers the maximum size of container shall be one (1) gallon, and as to all types of liquor the minimum size container shall be as otherwise provided in this Act.

"(g). To license, regulate, and control the use of alcohol and liquor for scientific, pharmaceutical, and industrial purposes, and to provide for the withdrawal thereof from warehouses and denaturing plants by regulation, and to prescribe the manner in which the same may be used for scientific research or in hospitals and in sanatoria, in industrial plants, and for other manufacturing purposes, tax-free."

This Section shall take effect and be in force at midnight August 31, 1941.

Sec. 11. That Section 11, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by Section 11, Chapter 448, being H. B. No. 5, Acts of the Regular Session of the Forty-fifth Legislature, be further amended so as to hereafter read as follows:

"Sec. 11. The Board or Administrator shall refuse to issue a permit to any applicant either with or without a hearing if it has reasonable grounds to believe and finds any of the following to be true:

"(1). That the applicant has been convicted for the violation of any provision of this Act during the two (2) years next preceding the filing of his application.

"(2). That the applicant has violated or caused to be violated any provision of this Act or any rule or regulation of the board during the twelve-month period preceding the date of his application.

"(3). That the applicant has failed to answer or has incorrectly answered any of the questions on the application.

"(4). That the applicant is indebted to the State for any taxes, fees, or penalties imposed by this Act or by any rule or regulation of the board.

"(5). That the applicant is not of good moral character, that his reputation for being a peaceable, law-abiding citizen in the community where he resides is bad, or that he is under twenty-one (21) years of age.

"(6). That the place or manner in which the applicant may conduct his business is of such a nature which

based on the general welfare, health, peace, morals, and safety of the people and on the public sense of decency warrants a refusal of a permit.

"(7). That the applicant is in the habit of using liquor to excess.

"(8). That the Board or Administrator believes or has reason to believe that the applicant will sell or knowingly permit any agent, servant, or employee to unlawfully sell liquor in dry area or in any other manner contrary to law.

"(9). When the word applicant is used in (1) to (8) in this Section, it shall also mean and include each member of a partnership or association and all officers and the owner or owners of the majority of the corporate stock of a corporation.

"(10). It is hereby declared that the provisions of this Section are required to be applied only to applicants who are newly engaging in the liquor business or whose permits or licenses have been cancelled under any authority contained in this Act. As to those applicants seeking renewal of permits the board or administrator shall be vested with discretionary authority to refuse or grant such permits under the restrictions of this Section."

Sec. 12. That Section 12, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by Section 12, Chapter 448, being H. B. No. 5, Acts of the Regular Session of the Forty-fifth Legislature, be further amended so as to hereafter read as follows:

"Sec. 12. The Board or Administrator may cancel or may suspend for any period of time not exceeding sixty (60) days, after notice and hearing any such permit granted if it is found that any of the following is true:

"(1). That the permittee has at any time been convicted for the violation of any provision of this Act.

"(2). That the permittee has violated any provision of this Act or any rule or regulation of the board at any time.

"(3). That the permittee has made any false or misleading representation or statement in his application.

"(4). That the permittee is indebted to the State for any taxes, fees, or penalties imposed by this Act or by any rule or regulation of the board.

"(5). That the permittee is not of good moral character, or that his reputation for being a peaceable and law-biding citizen in the community where he resides is bad.

"(6). That the place or manner in which permittee conducts his business is of such a nature which, based on the general welfare, health, peace, morals, and safety of the people and on the public sense of decency, warrants the cancellation or suspension of the permit.

"(7). That the permittee is not maintaining an acceptable bond.

"(8). That the permittee maintains a noisy, lewd, disorderly, or insubstantial establishment or has been supplying impure or otherwise deleterious beverages.

"(9). That the permittee is insolvent or incompetent or physically unable to carry on the management of his establishment.

"(10). That the permittee is in the habit of using liquor to excess.

"(11). That either the permittee, his agents, servants, or employees have misrepresented to a customer or the public any liquor sold by him.

"(12). Where the word 'permittee' is used in (1), (2), (3), (5), (6), and (10), of this Section it shall also mean and include each member of a partnership or association and each officer and the owner or owners of the majority of the corporate stock of a corporation."

Sec. 13. That subsection (9) of Section 15, as appearing in Section 16, Chapter 448, being H. B. No. 5, Acts of the Regular Session of the Forty-fifth Legislature, as amending subsection (h), Section 15, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, be further amended so as to hereafter read as follows:

"(9). Agent's Permit. An Agent's Permit shall authorize the holder thereof to:

"(a). Represent only the holders of permits within this State, other than retail permittees, authorized to sell liquor to retail dealers in Texas;

"(b). Solicit and take orders for the sale of liquor from only authorized permit holders.

"No such permit shall be granted to any person until he shall show to the satisfaction of the board that he has been employed or authorized to

act as an agent for the holder of a permit required by this Act.

"It is not intended that an Agent's Permit shall be required of the employee of a permit holder who sells liquor but who remains on the licensed premises in making such sale.

"No person holding an Agent's Permit shall be entitled to a Manufacturer's Agent's Permit.

"It shall be unlawful for the holder of an Agent's Permit to transport or carry liquor as samples; provided that nothing herein shall restrict such person from carrying or displaying empty sample containers.

"The annual fee for such permit shall be Five (\$5.00) Dollars."

This Section shall take effect and be in force at midnight August 31, 1941.

Sec. 14. That Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by Article III of Chapter 495, being H. B. No. 8, Acts of the Third Called Session of the Forty-fourth Legislature, and by Chapters 32 and 448, being House Bills 432 and 5, respectively, of Acts of the Regular Session of the Forty-fifth Legislature, and by Chapter 13, being S. B. No. 20, Acts of the First Called Session of the Forty-fifth Legislature, and by House Bills 8 and 373, Acts of the Regular Session of the Forty-seventh Legislature, be further amended by the addition of new Sections designated as Sections 15½, 41-A, 43-A, and 43-B, to hereafter read as follows:

"Sec. 15½. A. (1) Non-resident Seller's Permit: A Non-resident Seller's Permit shall be required of all distilleries, wineries, importers, brokers, and others who sell liquor to the holders of permits authorizing the importation of liquor into Texas, regardless of whether such sales are consummated within or without the State. Such permit shall authorize the holder thereof to:

"(a). Solicit or take orders for liquor from only the holders of permits authorized to import liquor into this State;

"(b). Ship, or cause to be shipped, liquor into Texas only in consummation of sales made to the holders of permits authorized to import liquor into Texas.

"(2). No permit shall be granted to an applicant for a Non-resident

Seller's Permit until it shall have been shown by the applicant that he has first filed with the Secretary of State a certificate certifying that he has appointed an agent, resident within this State, together with the street address and business of such agent. All notices of hearing for refusal, cancellation, or suspension may be served upon the designated agent as required herein, or upon the permittee, or, if a corporation, upon any officer thereof, or upon any other agent of the non-resident seller authorized as such to sell liquor in this State, and all proceedings as to such hearings shall be as is otherwise provided by this Act. Service of notice in such manner shall constitute due process; provided further, that if any permittee shall have failed to maintain within this State a designated agent for service as herein required, service may be had on the Secretary of State, and it shall be the duty of the Secretary of State to send any citation served on him to the holder of the permit by registered mail, return receipt requested, and such receipt shall be prima facie evidence of service upon the permittee.

"(3). The board shall promulgate and enforce rules and regulations requiring the filing of monthly reports supported by copies of invoices relating to liquor sold or purported to be sold to all persons within this State by the holders of Non-resident Seller's Permits. Such report form shall be prescribed and furnished by the board.

"(4). It shall be unlawful for any person holding a Non-resident Seller's Permit, or for any officer, director, agent or employee thereof, or for any affiliate, whether corporate or by management, direction or control, to:

"(a) Hold or have an interest in the permit, business, assets or corporate stock of any person authorized to import liquor into this State for the purpose of resale; provided that such restrictions shall not be applicable to any such interest acquired on or before January 1, 1941.

"(b) Fail to make and file a report with the Texas Liquor Control Board in Austin, Texas, as and when required by any authorized rule and regulation of the board.

"(c) Sell liquor for resale within this State which does not meet the standards of quality, purity, and iden-

tity of regulations adopted by the board.

"(d) Advertise any liquor contrary to the laws of this State, or of the regulations of the Board, or to sell liquor for resale in Texas contrary to the labeling and advertising regulations of the board.

"(e) Sell liquor for resale in Texas or to cause liquor to be brought into this State in any size container prohibited by law or regulations of the board.

"(f) Solicit or take orders for liquor from any person not authorized to import into Texas for the purpose of resale.

"(g) Induce, persuade or influence any person, or to conspire with any person, or to attempt to induce, persuade or influence any person, to violate this Act or any regulation of the board.

"(h) Violate any provision of Section 17, Article I, of this Act.

"(i) Exercise any privilege conveyed under a Non-resident Seller's Permit during the pendency of an order of suspension imposed by the board or administrator.

"(5) All liquor and the containers thereof sold, imported or shipped into this State, or possessed, stored or transported in violation of the restrictions contained in this Section are hereby declared illicit and subject to seizure and forfeiture as otherwise provided for 'illicit beverages.'

"(6) In event of cancellation or suspension of any Non-resident Seller's Permit, the board shall give immediate notice thereof in writing to all holders of permits authorized to import liquor into this State.

"(7) Every holder of a Non-resident Seller's Permit shall permit any State Officer to make examination of all books, accounts, records, minutes, letters, memoranda, documents, checks, vouchers, telegrams, constitution and by-laws, and other records of said permittee as often as may be deemed necessary by such officer. A written request shall be made to the permittee or his duly authorized manager or representative, or, if a corporation, to any officer thereof, at the time such officer desires to examine the business of said permittee. It shall be the duty of the person to whom said request is presented to immediately permit the said officer to inspect and examine all the said

books, records, and other documents of such permittee, and to answer under oath any questions propounded by such officer with reference thereto. The said officer shall have the power and authority to make investigation into the organization, conduct, and management of any person holding a Non-resident Seller's Permit and he shall have authority to inspect and examine any of its books, records, and other documents and to take such copies thereof as in his judgment may show or tend to show that said permittee has been or is engaged in violation of its rights and privileges or in violation of any law of this State. No such State officer as herein provided shall make public or use documents or information derived in the course of examination of records or documents, except in the course of some proceeding in which the board or the State is a party, either judicial in nature or in an action instituted to suspend or cancel the permit or to collect taxes due or penalties for violation of the laws of this State, or for the information of any officer of this State charged with the enforcement of its laws. If any permittee or his duly authorized representative shall fail or refuse to permit examination of records as herein provided or shall refuse to answer any questions propounded by such officer incident to the examination or investigation in progress, or shall refuse to permit a State officer to take copies of any of said books, records, or other documents, whether same be situated within or without this State, his permit shall be subjected to suspension or cancellation as provided in this Act.

"State Officer" as used in this Section shall mean and include any representative of the Texas Liquor Control Board, the Attorney General of Texas, or any assistant or representative of such Attorney General.

"(8) All holders of Non-resident Seller's Permits shall be required to designate in such manner and on such forms as may be required by the board those persons authorized as agents to represent such permit holder in this State, and any failure to do so shall constitute a violation of this Act.

"(9) No fee shall be paid for a Non-resident Seller's Permit."

"B. Manufacturer's Agent's Permit. A Manufacturer's Agent's Permit shall authorize the holder thereof to:

"(a) Represent only the holders of Non-resident Seller's Permits;

"(b) Solicit and take orders for the sale of liquor from only the holders of permits authorized to import liquors for the purpose of resale.

"No such permit shall be granted to any person until he shall show to the satisfaction of the board that he has been duly authorized to act as agent of the principal he proposes to represent.

"No person holding a Manufacturer's Agent's Permit shall be entitled to an Agent's Permit.

"It shall be unlawful for the holder of a Manufacturer's Agent Permit to transport or carry liquor as samples; provided that nothing herein shall restrict such person from carrying or displaying empty sample containers.

"The annual fee for such permit shall be Five (\$5) Dollars."

This Section shall take effect and be in force midnight August 31, 1941.

"Sec. 41-A. If it be shown upon the trial of a case involving violation of this Act that the defendant has once before been convicted of violating this Act since the effective date hereof, then, and in that event, conviction shall require the assessment of a fine of not less than Two Hundred (\$200) Dollars and not more than One Thousand (\$1,000) Dollars or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment; further provided that if it be shown upon the trial of a case involving a violation of this Act that the defendant has two or more times before been convicted of violating this Act since the effective date hereof, upon the third or any subsequent conviction the penalty shall be that of a felony, requiring imprisonment for not less than six (6) months and not more than five (5) years. Any prior conviction cited to enhance the penalty as herein provided may be used and cited any number of times to enhance the penalty upon any subsequent conviction."

"Sec. 43-A. No permit or license applied for under the terms of this Act may be issued to any person upon an application, either for an original license or permit, or for any license or permit sought to be transferred from another location, when the premises for which the permit or license is sought is licensed under any permit or license against which an order of

suspension by the board or administrator is pending or unexpired, or against which existing permit or license the board has initiated action to cancel or suspend."

"Sec. 43-B. When the terms 'citizen of Texas' and 'citizen of this State' are used in this Act, they shall mean not only citizenship in Texas, as required by this Act, but shall also require citizenship in the United States."

Sec. 15. That Section 17, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fifth Legislature, as amended by Section 22, Chapter 448, being H. B. No. 5, Acts of the Regular Session of the Forty-fifth Legislature, and by Section 5, Chapter 13, being S. B. No. 20, Acts of the First Called Session of the Forty-fifth Legislature, be further amended so as to hereafter read as follows:

"Sec. 17. (1). It shall be unlawful for any person holding a Package Store Permit, or owning an interest in a package store, to have any interest, either directly or indirectly, in a Wine and Beer Retailer's Permit, or Beer Retailer's License, or the business thereof; provided, that it shall not be unlawful for a person holding a Wine-Only Package Store Permit to also hold a Beer Retail Dealer's Off-Premise License.

"(2). It shall be unlawful for any person to hold or have an interest in more than five (5) package stores or the business thereof. It shall further be unlawful for any person to hold or have an interest in more than five (5) package store permits.

"(3). It shall be unlawful for any person who owns or has an interest in the business of a distiller, brewer, rectifier, wholesaler, winery, or wine bottler, or any agent, servant, or employee:

"(a). To own or have an interest, directly or indirectly, in the business, premises, equipment or fixtures of any retailer;

"(b). To furnish, give, or lend any money, service, or other thing of value, or to guarantee the fulfillment of any financial obligation of any retailer;

"(c). To make or offer to enter into an agreement, condition, or system, the effect of which will amount to the shipment and delivery of alcoholic beverages on consignment;



"(d). To furnish, give, rent, lend, or sell to any retail dealer any equipment, fixtures, or supplies to be used in the selling or dispensing of alcoholic beverages;

"(e). To pay or make any allowances to any retailer for a special advertising or distribution service, or to allow any excessive discounts;

"(f). To offer any prize, premium, gift, or other similar inducement to any retailer or consumer, or the agent, servant, or employee of either.

"(4). It shall be unlawful for any person operating under a permit under Article I of this Act to refuse to allow the board, or any authorized representative of the board, or any peace officer, upon request to make a full inspection, investigation, or search of any licensed premise or vehicle.

"(5). It shall be unlawful for any person to employ anyone under twenty-one (21) years of age to sell, handle, transport, or dispense or to assist in selling, handling, transporting or dispensing any liquor unless otherwise provided.

"(6). It shall be unlawful for any person who holds a permit under Article I of this Act to contribute any money or any thing of value toward the campaign expenses of any candidate for any office in this State.

"(7). It shall be unlawful for any person to possess, buy, sell, or offer to buy or sell any empty carton, case, package, keg, barrel, bottle, or any other kind of container whereon the State tax stamps has not been mutilated or defaced.

"(8). It shall be unlawful for any person to break or open any container containing liquor, or to possess such opened container of liquor on the premises of a package store.

"(9). It shall be unlawful for any person to sell, barter, exchange, deliver, or give away any drink or drinks of liquor to any person from a package or container that has for any reason been opened or broken on the premises of a package store.

"(10). It shall be unlawful for any person to fail or refuse to comply with any requirement of this Act or with any valid rule and regulation of the Board.

"(11). It shall be unlawful for any person, directly or indirectly, to be interested in, connected with, or be a party to a consignment sale as herein defined.

"(12). It shall be unlawful for any person to have in his possession, to transport, manufacture, or sell any illicit beverage.

"(13). It shall be unlawful for any person to import, sell, offer for sale, barter, exchange, or possess for the purpose of sale any liquor the container of which contains less than one-half pint; provided however, that in the case of malt or vinous liquor a six (6) ounce container shall be the minimum.

"(14). It shall be unlawful for any person to have curtains, hangings, signs, or any other obstruction which prevent a clear view of the interior of any package store; provided however, that this shall not apply to a drug store which holds a package store permit so as to prevent the display of drug merchandise.

"(15). It shall be unlawful for any person to sell or offer to sell any alcoholic beverage that shall have been authorized by any permit or license held by him after notice of cancellation or suspension of such permit or license by the board shall have been given.

"(16). It shall be unlawful for any carrier to import into this State and deliver any liquor to any person not authorized to import the same, or to transport and deliver liquor to any person in a dry area in this State, unless the same be for a lawful purpose as provided in this Act.

"(17). It shall be unlawful for any person to manufacture, import, sell, or possess for the purpose of sale any alcoholic beverages made from dried grapes, dried fruits, and dried berries, or any compounds made from synthetic materials, substandard wines or from must concentrated at any time to more than eighty (80°) degrees Balling.

"(18). It shall be unlawful for any person to import or to transport into this State from any place outside the State any liquor, in containers to which have not been affixed proper State tax stamps, consigned to, intended for delivery to, or being transported to any person or place located within the State boundaries, unless the same shall be consigned to the holder of a Wholesaler's Permit authorizing the sale of such liquor and at his place of business.

"(19). It shall be unlawful for any person to use, display, or to exer-



cise any privilege granted by a permit except at the place, address, premises, or location for which the permit is granted.

"(20). It shall be unlawful for any person to consent to the use of or to allow his permit to be displayed by or used by any person other than the one to whom the permit was issued.

"(21). It shall be unlawful for any holder of either an Agent's Permit or a Manufacturer's Agent's Permit to solicit or take orders for the sale of liquor, or to represent himself as an agent of any person, other than the person designated in the application for permit as being represented.

"(22). It shall be unlawful for the holder of a Wholesaler's, Class B Wholesaler's, or Wine Bottler's Permit, or any agent, servant or employee thereof, to sell or deliver liquor to any person who is not the holder of a permit authorizing the resale of liquor in this State.

"(23). It shall be unlawful for any retail dealer, or any agent, servant, or employee thereof, to conspire with any person to violate any of the provisions of this Section or to accept the benefits of any act prohibited by this Section.

"(24). It shall be unlawful for the holder of any permit provided for in this Act authorizing the importation of liquor, or the agent or employee of such person, to purchase from, order from, or give an order to, any person who is not the holder of a Non-resident Seller's Permit, or any holder of a Non-resident Seller's Permit during the period of any suspension ordered by the board or administrator against any such Non-resident Seller's Permit after such authorized importer has received notice of such suspension."

This Section shall take effect and be in force as midnight August 31, 1941.

Sec. 16. That subsection (12), Section 15, as appearing in Section 16, Chapter 448, being H. B. No. 5, Acts of the Regular Session of the Forty-fifth Legislature, amending subsection (k), Section 15, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by Section 2 of Chapter 13, being S. B. No. 20, Acts of the First Called Session of the Forty-fifth Legislature, be further amended so as to hereafter read as follows:

"(12). Private Carrier Permit. The holders of Brewer's, Distiller's, Class A Winery, Class B Winery, Rectifier's, Wholesaler's, Class B Wholesaler's, and Wine Bottler's Permits shall be entitled to transport liquor to or from the place of sale or distribution and to make deliveries to purchasers upon vehicles owned in good faith by such permittees when such transportation is for a lawful purpose; provided, however, that such permittees shall not be permitted to engage in the business of transporting for hire such liquor in violation of the motor carrier laws of this State, and any such permittee desiring to engage in such business for hire shall first secure a certificate or permit, as the case may be, from the Railroad Commission of Texas under the terms of the motor carrier laws, and shall be required to comply with the provisions of such laws. Motor vehicles used for such transportation shall be fully described in the application for a private carrier permit and such application shall contain all information which shall be required by the board. All vehicles used for such transportation within the State by such permittees shall have printed or painted on said vehicles such designation as may be required by the board. It shall be unlawful for any such permittee above-named to transport liquors in any vehicle not fully described in his application for a permit.

"The annual fee for such permit shall be Five (\$5.00) Dollars."

Sec. 17. That Section 45, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by Section 43, Chapter 448, being H. B. No. 5, Acts of the Regular Session of the Forty-fifth Legislature, be further amended so as to hereafter read as follows:

"Sec. 45. (a). It shall be the duty of the Texas Liquor Control Board and the Board of Control to have engraved or printed all necessary liquor and beer tax stamps as provided in both Articles I and II of this Act. Such stamps shall be of such design and denomination as the Texas Liquor Control Board shall from time to time prescribe and shall show the amount of tax, the payment of which is evidenced thereby, and shall contain the words 'Texas State Tax Paid.' All contracts for stamps required by this Act shall be let by the Board of Con-

trol as provided by law. The Texas Liquor Control Board is authorized to expend all necessary funds from time to time to keep on hand an ample supply of such stamps.

"(b). The State Treasurer shall be responsible for the custody and sale of such stamps and for the proceeds of such sales under his official seal. He shall sell same to such qualified persons as may be designated by the board and to no other person. The Treasurer shall have power to designate any State or National Bank in this State as his agent to deliver and collect for any stamps and to remit the proceeds thereof to him. Invoices for liquor stamps shall be issued by the State Treasurer in triplicate and numbered consecutively. The original of such invoice shall be forwarded to the purchaser or to the person in whose care they may be sent for the benefit of a qualified purchaser, the duplicate to the Texas Liquor Control Board, and the triplicate shall be retained by the State Treasurer. The duplicate copies shall be transmitted daily to the board in such manner and shall be accompanied by such statements as the board may require. The State Treasurer shall make and keep a permanent record of all stamps received by him as well as all stamps sold. Such record shall provide a perpetual inventory of all stamps and the disposition thereof and shall at all times be available to the board or its authorized representatives.

"(c). The board shall by rule and regulation prescribe the manner in which stamps shall be delivered by the State Treasurer to the board for use and sale by its inspectors in charge of ports of entry.

"(d). Refunds for liquor stamps may be made by the board from the revenue derived from the sale of such stamps before the same has been allocated, and so much of such funds as may be necessary is hereby appropriated for that purpose. A refund may be made by the board in all cases where stamped liquor is returned to the distillery or manufacturer upon certification by an Inspector for the board who inspected the shipment. The board may also make a refund to any person who has authorized to purchase stamps and who is in possession of unused liquor stamps upon discontinuation of business. In either instance it must be shown that the stamps for which a refund is asked

were purchased from the State Treasurer. No other refunds for liquor stamps shall be allowed."

Sec. 17-A. That Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by H. B. No. 8, Acts of the Third Called Session of the Forty-fourth Legislature, and by H. B. No. 432, being Chapter 32, Acts of the Regular Session of the Forty-fifth Legislature, and by H. B. No. 5, being Chapter 448, Acts of the Regular Session of the Forty-fifth Legislature, and by S. B. No. 20, being Chapter 13, Acts of the First Called Session of the Forty-fifth Legislature, and by House Bills Nos. 8 and 373, both being Acts of the Regular Session of the Forty-seventh Legislature, be further amended by the addition of a new Section, designated as Section 16-A, to read as follows:

"Sec. 16-A. It is hereby declared to be legislative policy that the extension of unlimited credits and unlimited discounts in promotion of quantitative sales of liquor is contrary to the general welfare and to the promotion of temperance by fostering marketing practices, subsidies, and sales inducements calculated to increase the sales of liquor and, thereby, its consumption.

"The Texas Liquor Control Board is hereby authorized, after notice and hearing and finding of facts, to promulgate and enforce rules and regulations for the purpose of restricting and limiting the extension of credits and the granting of discounts, subsidies, or rebates as relating to sales of liquor by the holders of manufacturing, rectifying, bottling and wholesale classes of permits to retail dealers, and, further, to require the keeping of such records and the making of such reports as will permit the enforcement of such regulations to the end that retail dealers may be discouraged from purchasing liquors in excess of ordinary means to pay and be further restrained from entering into deals, transactions, and agreements designed to place liquors into the channels of illicit or unlawful distribution and sale, or by which such retail dealers shall be influenced or subsidized to increase the sale and distribution of any quantity or quantities of liquor for the purpose of realizing or obtaining the benefit of inducements, discounts, or rebates cal-

culated to increase the sale or consumption of liquor in this State."

Sec. 17-A. That Article I, Chapter 467, Acts of the Second Called Session of the Forty-fifth Legislature, as amended by H. B. No. 8, Acts of the Third Called Session of the Forty-fourth Legislature, and by H. B. No. 432, being Chapter 32, Acts of the Regular Session of the Forty-fifth Legislature, and by H. B. No. 5, being Chapter 448, Acts of the Regular Session of the Forty-fifth Legislature, and by S. B. No. 20, being Chapter 13, Acts of the First Called Session of the Forty-fifth Legislature, and by House Bills Nos. 8 and 373, both being Acts of the Regular Session of the Forty-seventh Legislature, be further amended by the addition of a new Section, designated as Section 16-A, to read as follows:

"Sec. 16-A. It is hereby declared to be legislative policy that the extension of unlimited credits and unlimited discounts in promotion of quantitative sales of liquor is contrary to the general welfare and to the promotion of temperance by fostering marketing practices, subsidies, and sales inducements calculated to increase the sales of liquor and, thereby, its consumption.

"The Texas Liquor Control Board is hereby authorized, after notice and hearing and finding of facts, to promulgate and enforce rules and regulations for the purpose of restricting and limiting the extension of credits and the granting of discounts, subsidies, or rebates as relating to sales of liquor by the holders of manufacturing, rectifying, bottling, and wholesale classes of permits to retail dealers, and, further, to require the keeping of such records and the making of such reports as will permit the enforcement of such regulations to the end that retail dealers may be discouraged from purchasing liquors in excess of ordinary means to pay and be further restrained from entering into deals, transactions, and agreements designed to place liquors into the channels of illicit or unlawful distribution and sale, or by which such retail dealers shall be influenced or subsidized to increase the sale and distribution of any quantities of liquor for the purpose of realizing or obtaining the benefit of inducements, discounts, or rebates calculated to increase the sale or consumption of liquor in this State."

Sec. 17-B. That Section 29, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, be amended so as to hereafter read as follows:

"Sec. 29. (a). Any room, building, boat, structure, or place of any kind where alcoholic beverages are sold, bartered, or manufactured, stored, or possessed in violation of this Act, or under conditions and circumstances contrary to the purposes of this Act, or any room, building, boat, structure, or place open to the public, or where commodities or services are sold or rendered to the public in which persons are found resorting for the purpose of drinking alcoholic beverages of any type or alcoholic content not legalized for sale therein for beverage purposes in the areas where such place is situated under the local option provisions of this Act, and all such beverages and all property kept and used in said place, hereby are declared to be a common nuisance; and any person who maintains or assists in maintaining such common nuisance shall be guilty of a violation of this Act. The Attorney General, the County Attorney, or the District Attorney in the county wherein such nuisance exists or is kept or maintained may maintain an action by injunction in the name of the State of Texas to abate and temporarily and permanently enjoin such nuisance. Such proceedings shall, except as otherwise herein provided, be guided by the rules of other injunction proceedings. The plaintiff shall not be required to give bond in such action and the final judgment shall constitute a judgment in rem against the property as well as a judgment against the defendant. Upon such final judgment the court shall order that said room, house, building, structure, boat, or place of any kind shall be closed for a period of one year, or opened for part of said time and until the owner, lessee, tenant, or occupant thereof shall give bond with sufficient surety to be approved by the court making the order in the penal sum of not less than One Thousand (\$1,000.00) Dollars, payable to the State and conditioned that alcoholic beverages will not thereafter be manufactured, bartered, possessed, stored, or sold, or otherwise disposed of therein, or kept thereon or therein, with the intent to sell or otherwise dispose of contrary to law, that the provisions of this Act will not be vio-

lated, that no person shall be permitted to resort thereon or therein for the purpose of drinking alcoholic beverages of any type or alcoholic content not legalized in the area where such place is situated under the local option provisions of this Act, and that the owner, lessee, tenant, or occupant thereof will pay all fines, costs, and damages assessed against him for any violation of this Act. If any condition of such bond is violated by either the owner, lessee, tenant, or occupant thereof, the whole amount may be recovered as a penalty for the use of the county wherein the premises are situated.

"(b). Upon any appeal from the judgment of the District Court such judgment shall not be superseded except upon the posting of an appeal-pending bond in the penal sum of not less than Five Hundred (\$500.00) Dollars, in addition to bond for costs of such appeal.

"(e). 'Appeal-pending bond' as used in this Section shall mean a bond to be approved by the District Court, required to be posted before the judgment of the trial court may be superseded on appeal, and conditioned that in the event the judgment of the trial court is finally affirmed it may be forfeited in the same manner for any of the causes for which a bond required upon final judgment may be forfeited as to any acts committed during the pendency of appeal."

Sec. 18. That Section 1 of Article II as appearing in Section 49, Chapter 448, being H. B. No. 5, Acts of the Regular Session of the Forty-fifth Legislature, amending Article II, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, be amended so as to hereafter read as follows:

"Section 1. Where used in this Article, unless expressly stated otherwise:

"(a). The term 'barrel' means, as a standard of measure, a quantity of beer equal to thirty-one (31) standard gallons.

"(b). The term 'beer' means a malt beverage containing one-half of one per cent or more of alcohol by volume and not more than four (4) per cent of alcohol by weight, and shall not be inclusive of any beverage designated by label or otherwise by any other name than beer.

"(c). The term 'board' means Texas Liquor Control Board.

"(d). The term 'container' means any container holding beer in quantities of one barrel, one-half barrel, one-quarter barrel, one-eighth barrel, or any bottle or can having a capacity of twelve (12) fluid ounces, twenty-four (24) fluid ounces, and thirty-two (32) fluid ounces, and no container of any other capacity shall be authorized.

"(e). The term 'licensee' means any holder of a license provided in this Article, or any agent, servant, or employee thereof.

"(f). The term 'manufacturer' means a person engaged in the manufacture or brewing of beer whether located within or without the State of Texas.

"(g). The term 'original package' means any container holding one barrel, one-half barrel, one-quarter barrel, or one-eighth barrel of beer in bulk, or any box, crate, carton, or other device used in packing beer that is contained in bottles or other containers.

"(h). The term 'person' shall mean and refer to any natural person or association of natural persons, trustees, receiver, partnership, corporation, organization, or the manager, agent, servant, or employee of any of them."

Sec. 19. That Subsection (f) of Section 3, Article II, as appearing in Section 49, Chapter 448, being H. B. No. 5, Acts of the Regular Session of the Forty-fifth Legislature, amending Article II, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, be further amended so as to hereafter read as follows:

"(f). Branch License: The holder of a Manufacturer's or General Distributor's License, after obtaining the primary license in the county of his domicile or residence, may establish other places of business in any counties wherein the sale or beer is legal for the distribution of beer upon obtaining a Branch License for such place of business as herein provided. Any Branch License issued under the provisions of this Section shall terminate at the same time as the primary license of such licensee. The annual State fee for a Branch License shall be Fifty (\$50) Dollars; provided, however, that the fee for any license required to terminate in less than

twelve (12) months from the date of issue shall be paid in advance at the rate of Four Dollars and Twenty-five Cents (\$4.25) for each month or fraction thereof for which the license is issued.

"To obtain a Branch License the applicant therefor shall present the primary license secured in the county of his residence to the assessor and collector of taxes in the county in which the application is filed together with the fee herein provided, and it shall be the duty forthwith of such assessor and collector of taxes to certify to the Texas Liquor Control Board, that such application has been made and the required fees paid, and such other information as the board may require; and upon receiving such certificate and report from the assessor and collector of taxes it shall be the duty of the board or administrator to issue the Branch License accordingly.

"If, by local option election, the holder of a Branch License shall be prevented from selling beer in the county of his residence and for such reason his primary license becomes void, nevertheless he shall not be denied the right of lawfully selling beer under any existing Branch License until the normal expiration thereof; it further being provided that any such manufacturer or distributor may, upon the expiration of any such Branch License, immediately thereafter obtain in any county wherein a Branch License has been held a primary Manufacturers or Distributor's License without the necessity of qualifying as a resident of the county in which such primary license is sought."

Sec. 20. That Article II, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by Article III of Chapter 495, Acts of the Third Called Session of the Forty-fourth Legislature, and by Chapter 448, being H. B. No. 5, Acts of the Regular Session of the Forty-fifth Legislature, and by Chapter 13, being S. B. No. 20, Acts of the First Called Session of the Forty-fifth Legislature, and by S. B. No. 414, Acts of the Regular Session of the Forty-seventh Legislature, be further amended by the addition of new Sections designated as Sections 5-A, 10½-A, 19-A and 19-B, all of which shall hereafter read as follows:

"Sec. 5-A. The restrictions as to residence in the county in which a Retail Dealer's License is applied for shall not be applicable to any retail dealer as may have qualified by law and obtained a Retail Dealer's License in the county of his residence, when such retail dealer also seeks to obtain a Retail Dealer's License in any other county."

"Sec. 10½-A. All incorporated cities and towns are hereby authorized in adopting charter amendments or ordinances to distinguish between retailers selling beer for consumption on the premises where sold and those retailers, manufacturers, or distributors selling not for consumption on the premises where sold, and to provide for separate and distinct regulations."

"Sec. 19-A. As to any causes for cancellation of licenses herein provided, in lieu of such cancellation, the board or administrator shall have the discretionary power and authority to suspend any such license for a period not to exceed sixty (60) days."

"Sec. 19-B. For the purposes contemplated by this Act, conduct by any person at a place of business where the sale of beer at retail is authorized that is lewd, immoral, or offensive to public decency is hereby declared to include but not be limited to the following prohibited acts; and it shall be unlawful for any person engaged in the sale of beer at retail, or any agent, servant, or employee of said person, to engage in or to permit such conduct on the premises of the retailer:

"(a) The use of or permitting the use of loud and vociferous or obscene, vulgar, or indecent or abusive language.

"(b) The exposure of person or permitting any person to expose his person.

"(c) Rudely displaying or permitting any person to rudely display a pistol or any other deadly weapon in a manner calculated to disturb the inhabitants of such place.

"(d) Solicitors of any person for coins to operate musical instruments or other devices.

"(e) Solicitation of any person to buy drinks or beverages for consumption by the retailer or his employees.

"(f) Becoming intoxicated on licensed premises or permitting any intoxicated person to remain on such premises.

"(g) Permitting entertainment, performances, shows, or acts that are lewd or vulgar.

"(h) Permitting solicitation of persons for immoral or sexual purposes or relations.

"(i). Failing to comply with or failure to maintain the retail premises in accordance with existing sanitary and health laws of this State or any sanitary or health provision of a city ordinance."

Sec 21. That Section 6 of Article II, as appearing in Section 49, Chapter 448, being H. B. No. 5, Acts of the Regular Session of the Forty-fifth Legislature, amending Article II, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, be further amended so as to hereafter read as follows:

"Sec. 6. (a). The application of any person desiring to be licensed to manufacture, distribute, or sell beer shall be filed in duplicate with the county judge, who shall set same for a hearing at a date not less than five (5) nor more than ten (10) days from the filing of same.

"(b). Upon the filing of any application for a license, the county clerk shall give notice thereof by posting at the courthouse door a written notice of the filing of such petition, and the substance thereof, and the date of hearing upon such petition. Any citizen shall be permitted to contest the facts stated in said petition and the applicant's right to secure license upon giving security for all costs which may be incurred in such contest should this case be decided in favor of the applicant; provided, however, no officer of a county or any incorporated city or town shall be required to give bond for such costs.

"(c). If upon hearing upon the petition of any applicant for a license the county judge finds the facts stated therein to be true and has no other lawful reason for denying the application, he shall enter an order so certifying, and a copy of said order shall be delivered to the applicant; applicant shall thereupon present the same to the assessor and collector of taxes of the county wherein the application is made and shall pay to the assessor and collector of taxes the fee specified in this Article for the class of license applied for; the assessor and collector of taxes shall thereupon report to the Texas Liquor Control

Board upon a form prescribed by said board certifying that the application for license has been approved and all required fees paid, and such other information as may be required by the board, and to such certificate shall be attached a copy of the original application for license. Upon receiving such report or certification from the assessor and collector of taxes, it shall be the duty of the board or administrator to issue the license accordingly, if it is found that the applicant is entitled to a license, which license shall show the class of business the applicant is authorized to conduct, amount of fees paid, date, correct address of the place of business, and date of expiration, and such other information as the board shall deem proper; provided, however, that the board or administrator may refuse to issue any such license if in possession of information from which it is determined that any statement contained in the application therefor is false, untrue, or misleading, or that there are other legal reasons why a license should not be issued. Upon any refusal by the board or administrator, applicant shall be entitled to refund of any license fee paid to the county assessor and collector of taxes at the time of filing his application.

"(d). If upon hearing upon the petition of any applicant for a license the county judge finds any facts stated therein to be untrue, the application shall be denied; and it shall be sufficient cause for the county judge to refuse to grant any license when he has reason to believe that the applicant will conduct his business of selling beer at retail in a manner contrary to law or in any place or manner conducive to violation of the law or likely to result in any jeopardy to the peace, morals, health, or safety of the general public. There shall be sufficient legal reason to deny a license if it is found that the place, building, or premises for which the license is sought has theretofore been used for selling alcoholic beverages in violation of law at any time during the six (6) months immediately preceding the date of application, or has during that time been a place operated, used, or frequented in any manner or for any purpose contrary to the provisions of this Act, or, so operated, used, or frequented in any manner or for any purposes contrary to the provisions of this Act, or, so operated, used or frequented for any purpose or



in any manner that is lewd, immoral or offensive to public decency. In the granting or withholding of any license to sell beer at retail, the county judge in forming his conclusions shall give due and proper consideration to any recommendations made by the district or county attorney or the sheriff of the county, and the mayor and chief of police of any incorporated city or town wherein the applicant proposes to conduct his business and to any recommendations made by representatives of the board.

"(e). In the event the county judge, Texas Liquor Control Board or administrator denies the application for a license, he shall enter his judgment accordingly, and the applicant may within thirty (30) days thereafter appeal to the district court of the county where such application is made, and such district court may hear and determine such appeal in term-time or vacation and under the same rules and procedure as provided in Section 14, Article I, of this Act. In the event the judgment of the district court shall be favorable to the applicant and an appeal is taken, a certified copy of the judgment shall be presented to the assessor and collector of taxes who shall thereupon accept the fees required and make report to the board in the manner required upon like orders issued by the county judge. In the event the license is finally issued upon orders of the district court and, upon appeal, the order of the district court be reversed, then the mandate of the appellate court shall, without further proceedings, invalidate and make void the license authorized by order of the district court, and the holder thereof shall, upon application therefor, be entitled to a refund of the proportionate amount of unexpired fees. So much of the proceeds collected for license fees under this Article as may be necessary for refunds herein provided for are appropriated for that purpose. Any person appealing from a judgment or order under the provisions of this Section shall give bond for all costs incident to such appeal and shall be required to pay such costs if the judgment on appeal is unfavorable to the applicant, but not otherwise; provided, however, no such bond shall be required upon appeals filed on behalf of the State.

"(f). Every person making application for an original license of any class herein provided, except Branch

Licenses and Temporary Licenses, shall be subject at the time of the hearing thereon to a fee of Five (\$5) Dollars, which fee shall, by the county clerk, be deposited in the county treasury and the applicant shall be liable for no other fees except said application fee and the annual license fee required of him by this Act.

"(g). No person shall be authorized to sell beer during the pendency of his original application for a license, and no official shall advise or suggest that such action would be lawful or permitted."

Sec. 22. That Section 26 of Article II, as appearing in Section 40, Chapter 448, being H. B. No. 5; Acts of the Regular Session of the Forty-fifth Legislature, amending Article II, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, and as amended by Section 20, Chapter 13, being S. B. No. 20, Acts of the First Called Session of the Forty-fifth Legislature, be further amended so as to hereafter read as follows:

"Sec. 26. Conviction upon criminal prosecution for any violation of this Article shall require assessment of penalty or penalties as provided in Section 41, Article I of this Act."

Sec. 23. That Section 7 of Article II, as appearing in Section 49, Chapter 448, being H. B. No. 5, Acts of the Regular Session of the Forty-fifth Legislature, amending Article II, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, and as amended by Sections 13 and 14, Chapter 13, being S. B. No. 20, Acts of the First Called Session of the Forty-fifth Legislature, be further amended so as to hereafter read as follows:

"Sec. 7. (a). Any license issued under the terms of this Article, except Branch Licenses and Temporary Licenses specifically provided for, shall terminate one year from the date issued, and no license shall be issued for a longer term than one year. When it is desired to renew any license obtained under the procedure provided in this Article, the holder of such license shall make written application to the Assessor and Collector of Taxes of the county of the licensee's residence not more than thirty (30) days nor less than five (5) days prior to the date of expiration of the license held by him. Such



application for renewal shall be signed by the applicant and contain full and complete information required of the applicant by the board showing such applicant is not disqualified from holding a license under this Act, and applicant shall pay to the Assessor and Collector of Taxes the appropriate license fee for the class of license sought to be renewed. The Assessor and Collector of Taxes shall thereupon transmit to the board a copy of said application for renewal together with the certification that all required fees have been paid for the ensuing license period; and upon receiving the copy of said application and certification as to the payment of fees, the board or administrator may in its discretion issue the license applied for, or may within five (5) days after receipt of such application reject the same and require that the applicant for renewal file application with the County Judge and submit to hearing before such County Judge in the manner required of any applicant for the primary or original license. Any applicant for renewal when such renewal is rejected by the board or administrator shall be entitled to refund of any license fee paid to the County Assessor and Collector of Taxes at the time of filing his application for renewal.

"(b). Any application for renewal shall be accompanied by a fee of Two (\$2.00) Dollars, which shall be in addition to the amount required by law to be paid for annual license fees, as a renewal fee charge. Any renewal fee charges collected by the County Assessor and Collector of Taxes shall be deposited in the county treasury as fees of office and be so accounted for by him. No applicant for renewal of license shall be required to pay any fees other than the renewal fee charge and license fees herein provided, except when required by action of the board or administrator to submit to hearing upon such renewal before the County Judge.

"(c). A separate license fee shall be required for every place of business where the business of manufacturing, importing, or selling beer is conducted.

"(d). No license issued under the provisions of this Article shall be assigned by the holder thereof to any person; provided, that should any holder of a license desire to change the place of business designated in such license, he may do so by apply-

ing upon a form prescribed by the board to the County Judge and receiving his consent or approval, but further providing that the County Judge may deny such application for change in the place of business for any cause for which an original application may be denied. Any such application may be subject to protest and hearing as though it were an original application. No additional license fees for the remaining unexpired term of the license shall be required of the applicant for change of location.

"(e). No licensee shall obtain any refund upon the surrender or non-use of any license for the manufacture, distribution, importation, or sale of beer except as otherwise provided in this Article.

"(f). No person shall conduct as owner or part owner thereof any place of business engaged in the manufacture, distribution, importation, or sale of beer except under the name to which the license covering such place of business is issued.

"(g). Every license issued prior to the effective date hereof authorizing the manufacture, distribution, or sale of beer shall remain in force until the date of its expiration, but the licensee thereunder shall hold such license as fully subject to all the provisions of this Act, including, but not limited to, the cancellation or suspension thereof for cause as any license that may be issued on or after the effective date hereof.

"(h). Should the license of any licensee become mutilated or destroyed the board or administrator may issue another license by way of replacement in any manner deemed appropriate by the board or administrator."

Sec. 24. That Article II, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by Article III of Chapter 495, being H. B. No. 8, Acts of the Third Called Session of the Forty-fourth Legislature, and by Chapter 448, being H. B. No. 5, Acts of the Regular Session of the Forty-fifth Legislature, and by Chapter 13, being S. B. No. 20, Acts of the First Called Session of the Forty-fifth Legislature, and by S. B. No. 414, Acts of the Regular Session of the Forty-seventh Legislature, be further amended by the addition of a new Section design-

nated as Section 23½, to read as follows:

"Sec. 23½. All funds derived from the sale of beer tax stamps shall be allocated to the use and benefit of the Old Age Assistance Fund of the State of Texas."

Sec. 25. That Section 24 of Article II, as appearing under Section 49, Chapter 448, being H. B. No. 5, Acts of the Regular Session of the Forty-fifth Legislature, amending Article II, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, be further amended so as to hereafter read as follows:

"Sec. 24. (1). It shall be unlawful for any manufacturer or distributor directly or indirectly, or through a subsidiary or affiliate, any agent or any employee, or by any officer, director, or firm member:

"(a). Ownership of Interest or Real Estate: To own any interest in the business of any retail dealer in beer, or any interest of any kind in the premises in which any such retail dealer conducts his or its business.

"(b). Retail Licenses: To hold the ownership or any interest in any license to sell brewery products for consumption on the premises covered by such license, except the license of manufacturers to dispense their own products on the brewery premises.

"(c). Loans and Guaranties: To furnish, give, or lend any money or other thing of value to any person engaged or about to engage in selling brewery products for consumption on or off the premises where sold, or to any such person for the use, benefit, or relief of said person, or to guarantee the repayment of any loan or the fulfillment of any financial obligation of any person engaged or about to engage in selling beer at retail.

"(d). Consignment Sales: To make any delivery of beer under any agreement, arrangement, condition, or system whereby the person receiving the same has the right at any time to relinquish possession to or return same to the shipper, or whereby the title to such beer remains in the shipper; or to make any delivery of beer under any agreement, arrangement, condition, or system whereby the person designated as the receiver merely acts as an intermediary for the shipper or seller and the actual receiver, including any delivery of

beer to a factor or broker; or to employ any other method whereby any person is placed in actual or constructive possession of beer without acquiring title thereto, or whereby any person designated by the shipper or seller as the purchaser did not in fact purchase the same, or to make any other kind of transaction which in law may be construed as a consignment sale.

"(e). Equipment and Fixtures: To furnish, give, rent, lend, or sell any equipment, fixtures, or supplies to any person engaged in selling brewery products for consumption on the premises where sold. This subsection does not apply to such equipment, fixtures, or supplies furnished, given, loaned, rented, or sold prior to November 16, 1935, except that such transactions made prior to this date are not to be used as a consideration for an agreement thereafter made respecting the purchase of brewery products; provided that equipment, fixtures, or supplies furnished, given, rented, loaned, or sold to any person engaged in selling brewery products for consumption on the premises where sold, prior to November 16, 1935, when removed from the premises of such person or repossessed by any manufacturer or distributor of brewery products or by his agents or employees, shall not again be furnished, given, rented, loaned, or sold to any person engaged in the sale of brewery products for consumption on the premises where sold.

"(f). Allowances and Rebates for Advertising and Distribution Service: To pay or to make any allowance to any retail dealer for an advertising or distribution service.

"(g). Prizes and Premiums: To offer any prize, premiums, gift, or other inducement to any dealer in or consumer of brewery products.

"(h). Advertising: To publish or disseminate or cause to be published or disseminated by radio broadcast, or in any newspaper, periodical or other publication or by any sign or outdoor advertisement or any other printed or graphic matter any advertisement of any brewery product, if such advertisement causes, or is reasonably calculated to cause, deception of the consumer with respect to the product advertised. An advertisement shall be deemed misleading if it is untrue in any particular or if directly or by ambiguity, omission, or infer-

ence, it tends to create a misleading impression. Any advertisement of or reference to alcoholic content of any brewery product or any advertisement disparaging of a competitor's products, or that is obscene or indecent, shall be unlawful.

"(i). Misbranding: To sell or otherwise introduce into commerce any brewery product that is misbranded. A product is misbranded:

"(1). Food and Drug Act Required—If it is misbranded within the meaning of the Food and Drug Act.

"(2). Standards of Fill—If the container is so made, formed, or filled as to mislead the purchaser, or if its contents fall below the recognized standards of fill.

"(3). Standards of Quality—If it misrepresents the standard of quality of products in the branded container.

"(4). Labels—If it is so labeled that it purports to be any product other than is actually in the container.

"(j). Exclusive Outlet: To require, by agreement or otherwise, that any retailer engaged in the sale of brewery products shall purchase any such products from such persons to the exclusion in whole or in part, of the products sold or offered for sale by any other person engaged in the manufacture or distribution of brewery products, or to require the retailer to take or dispose of a certain quota of any such product.

"(k). Commercial Bribery: To give or permit to be given money or anything of value in an effort to induce agents, employers, or representatives of customers or prospective customers to influence their employers or principals to purchase or contract to purchase brewery products from the maker of such gift, or to influence such employers or principals to refrain from dealing or contracting with competitors.

"(1). Returnable Container: It shall be unlawful for any manufacturer to accept as a return or to purchase or use any barrel, half-barrel, keg, case, or bottle premanently branded or imprinted with the name of another manufacturer.

"(m). Labeling: To manufacture or sell or otherwise introduce into commerce in this State any brewery product unless it bear a label showing in plain, legible type the name and address of the manufacturer and the name of the distributor for whom

any special brand is manufactured, the brand or trade name, and the net content of the bottle in terms of United States liquid measure; or to manufacture or sell, or otherwise introduce into commerce in this State any beer or container or dispensing equipment, carton, or case for beer bearing a label or imprint which by wording, lettering, numbering, or illustration, or in any other manner carries any reference or allusion or suggestion to the alcoholic strength of the product or to any manufacturing process, ageing, analysis, or scientific matter of fact, or upon which appears any such words or combination of words or abbreviations thereof, as 'strong,' 'full strength,' 'extra strength,' 'high test,' 'high proof,' 'pre-war strength,' 'full old time alcohol strength,' or any words or figures or other marks or characters alluding or relating to 'proof,' 'balling' or 'extract,' contents of the product, or which bears a label that is untrue in any particular or which directly or by ambiguity, omission, or inference tends to create a misleading impression or causes, or is reasonably calculated to cause deception of the consumer or buyer with respect to the product.

"(n). Administrative Authority to Relax: It is hereby specifically provided that the board may by rule and regulation relax the restrictions contained in subdivisions (c), (e), and (g) of this subsection in respect to the sale or gift of novelties advertising the products of the manufacturer or distributor; as to gifts made to civic, religious, or charitable organizations; as to cleaning and maintenance of coil connections for dispensing draught beer; as to the lending of equipment for special occasions; and as to acts of a courtesy nature only; provided that such regulations shall establish definite limitations not inconsistent with the general provisions of this Section.

"(2). It shall be unlawful for any retail dealer to dispense any draught beer unless each faucet or other dispensing apparatus is equipped with a sign clearly indicating the name or the brand of the particular product being at the time dispensed through each faucet or other apparatus, which sign shall be in legible lettering and in full sight of the purchaser.

"(3). In addition to other power and authority granted by this Act to

the board or administrator, said board shall have the power and authority upon finding it necessary to effectuate the purposes of this Article to adopt rules and regulations to provide a schedule of deposits required to be obtained on any beer containers delivered by any licensee, and any violation of any such regulation shall be unlawful.

"(4). Provided that if any provision of this Section 24 is for any reason held unconstitutional and invalid, such decision shall not affect the validity of the remaining portions, and the Legislature hereby declares that it would have passed this Section, and each Subsection, provision, sentence, clause, or phrase thereof, irrespective of the fact that any provision is declared unconstitutional."

Sec. 26. That the repeal or amendment of any Section or any portion of a Section of the Texas Liquor Control Act by the enactment of this Act shall not affect or impair any act done, or right vested or accrued, or any proceeding, suit, or prosecution had or commenced in any cause before such repeal or amendment shall take effect; but every such act done, or right vested or accrued, or proceeding, suit, or prosecution had or commenced shall remain in full force and effect to all intents as if such Section, or part thereof, so repealed or amended had remained in force, except that where the course of practice or procedure for enforcement of such right, or the conducting of such proceeding, suit, or prosecution shall be changed, the same shall be conducted as near as may be in accordance with this Act. No offense committed and no liability, penalty, or forfeiture, either civil or criminal, incurred prior to the time when any Section or part thereof shall be repealed or amended by this Act, shall be discharged or affected by such repeal or amendment; but prosecution and suits for such offenses, liabilities, penalties, or forfeitures shall be instituted and proceeded with in all respects as if prior statute, or part thereof, had not been repealed or amended, except that where the mode of procedure or matters of practice have been changed by this Act, the procedure had after this Act shall have taken effect in such prosecution or suit shall be, as far as practicable, in accordance with this Act.

Sec. 27. If any part, Section, Subsection, paragraph, sentence, clause,

phrase, or word contained in this Act shall be held by the courts to be constitutional, such holding shall not affect the validity of the remaining portions of the Act, and the Legislature hereby declares that it would have passed such remaining portions despite such invalidity.

Sec. 28. All laws and parts of laws in conflict herewith are hereby expressly repealed.

Sec. 29. The fact that the present law is inadequate to deal with many phases of liquor control, and the further fact that there exist some conditions requiring immediate correction in the public interest, create an emergency and an imperative public necessity that the Constitutional Rule requiring all bills to be read on three several days in each House be suspended, and such rule is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

Question—Shall the motion to suspend the regular order of business for the purpose of considering the report at this time prevail?

(Senator Moore in the Chair.)

#### Senate Resolution 179

Senator Winfield, by unanimous consent, offered at this time the following resolution:

Whereas, Mrs. Coke Stevenson is confined in the hospital; and

Whereas, Mrs. Stevenson was a frequent and charming guest in the Senate Chamber while her distinguished husband was serving as a Member of the House of Representatives in the Forty-first, Forty-second, and Forty-fifth Legislatures; and

Whereas, She was the First Lady of the House of Representatives in the Forty-third and Forty-fourth Legislatures while her distinguished husband served as Speaker; and

Whereas, She is serving her "second term" as the First Lady of the Senate of which her distinguished husband has served as President during the Forty-sixth and Forty-seventh Legislatures; and

Whereas, She has been a frequent and most welcome visitor in the Senate Chamber during the Forty-seventh Legislature; and

Whereas, Her presence is greatly missed in the Senate Chamber, where

her gracious smile, words of encouragement, and radiant personality meant much to all of those who came in contact with her; and

Whereas, It is the desire of the Members of the Senate to note her absence from among us and to extend to her and her family our deepest sympathy in her illness; now, therefore, be it

Resolved by the Senate, That a copy of this resolution expressing the will of this body be forwarded, under the seal of the Senate, to our charming friend, Mrs. Coke Stevenson and that the Secretary of the Senate be directed to send her an appropriate bouquet as an expression of the love, respect and esteem in which she is held by the Members of the Senate.

WINFIELD,  
MOORE.

Signed.—Aikin, Beck, Brownlee, Chadick, Cotten, Fain, Formby, Graves, Hazlewood, Hill, Isbell, Kelley, Lanning, Lemens, Lovelady, Martin, Mauritz, Metcalfe, Moffett, Ramsey, Shivers, Smith, Spears, Stone, Sulak, Van Zandt, Vick, Weinert and York.

On motion of Senator Hazlewood, the names of all Senators were added to the resolution as signers thereof.

The resolution was adopted unanimously by a rising vote.

#### Request to Set House Bill 1011 As Special Order

Senator Brownlee asked unanimous consent of the Senate that H. B. No. 1011 be set as a special order for tomorrow immediately after completion of the morning call on that day.

The President Pro Tempore announced there was objection to the request.

#### Senate Bill 504 on Second Reading

On motion of Senator Chadick and by unanimous consent, the regular order of business was suspended to permit consideration of S. B. No. 504 at this time.

The President Pro Tempore laid before the Senate on its second reading and passage to engrossment:

S. B. No. 504, A bill to be entitled "An Act requiring employers to protect the contractual and/or seniority right of employees entering military

service; making certain exceptions; defining 'Employer of Labor'; providing penalties for the violation of this Act; and declaring an emergency."

The bill was read second time and was passed to engrossment.

#### Senate Bill 504 on Third Reading

Senator Chadick moved that the constitutional rule requiring bills to be read on three several days be suspended and that S. B. No. 504 be placed on its third reading an final passage.

The motion prevailed by the following vote:

Yeas—28

Aikin	Martin
Beck	Mauritz
Brownlee	Metcalfe
Chadick	Moffett
Cotten	Moore
Fain	Ramsey
Formby	Shivers
Graves	Stone
Hazlewood	Sulak
Isbell	Van Zandt
Kelley	Vick
Lanning	Weinert
Lemens	Winfield
Lovelady	York

Absent—Excused

Hill	Spears
Smith	

The President Pro Tempore then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—28

Aikin	Martin
Beck	Mauritz
Brownlee	Metcalfe
Chadick	Moffett
Cotten	Moore
Fain	Ramsey
Formby	Shivers
Graves	Stone
Hazlewood	Sulak
Isbell	Van Zandt
Kelley	Vick
Lanning	Weinert
Lemens	Winfield
Lovelady	York

Absent—Excused

Hill	Spears
Smith	

**Request to Take up House Bill 187**

Senator Shivers asked unanimous consent of the Senate that the regular order of business be suspended to take up H. B. No. 187 on its second reading and passage to third reading.

The President Pro Tempore announced there was objection to the request.

**Adjournment**

Senator Mauritz moved that the Senate adjourn until 10:00 o'clock a. m. tomorrow.

Senator Van Zandt moved that the Senate recess to 2:00 o'clock p. m. today.

Senator Metcalfe moved that the Senate recess until 10:00 o'clock a. m. tomorrow.

Question first recurring on the motion to adjourn, yeas and nays were demanded.

The motion prevailed by the following vote:

**Yeas—19**

Beck	Mauritz
Cotten	Moffett
Fain	Ramsey
Formby	Shivers
Graves	Stone
Hazlewood	Vick
Isbell	Weinert
Lanning	Winfield
Lovelady	York
Martin	

**Nays—8**

Aikin	Metcalfe
Brownlee	Moore
Chadick	Sulak
Lemens	Van Zandt

**Absent**

Kelley

**Absent—Excused**

Hill	Spears
Smith	

The Senate, accordingly, at 12:30 o'clock p. m., adjourned until 10:00 o'clock a. m. tomorrow.

**EIGHTY-FOURTH DAY**

(Tuesday, July 1, 1941)

The Senate met at 10:00 o'clock a. m., pursuant to adjournment, and was called to order by President Stevenson.

The roll was called, and the following Senators were present:

Aikin	Martin
Beck	Mauritz
Brownlee	Metcalfe
Chadick	Moffett
Cotten	Moore
Fain	Ramsey
Formby	Shivers
Graves	Stone
Hazlewood	Sulak
Isbell	Van Zandt
Kelley	Vick
Lanning	Weinert
Lemens	Winfield
Lovelady	York

**Absent—Excused**

Hill	Spears
Smith	

A quorum was announced present.

Rev. S. B. Culpepper, Chaplain, offered the invocation.

On motion of Senator Aikin and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

**Leaves of Absence Granted**

Senator Spears was granted leave of absence for today on account of important business, on motion of Senator Graves.

Senator Hill was granted leave of absence for today on account of important business, on motion of Senator Stone.

Senator Smith was granted leave of absence for today on account of important business, on motion of Senator Moffett.

**Motion to Reconsider Vote on House Bill 1047**

Senator Mauritz moved to reconsider the vote by which H. B. No. 1047 was passed on yesterday and to recall the bill from the House, and he asked to have the motion to reconsider spread upon the Journal.